

To: Jayne Pietrass [Jpietrass@coanet.org]
Friday, December 12, 2003 4:26 PM
'adoptionregs@state.gov'
Subject: comments: locket number State/AR-01/96



Cover letter E
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CDAs Comments
12-12-03.doc



Attachment 1 -
CROSSWALK.doc



Attachment 2
-Sufficiently Sim...

Two hard copies of the

following have been sent by mail:

December 12, 2003

U.S. Department of State
CA/OCS/FRC
Adoption Regulations Docket Room
SA-29
2201 C Street, N.W.
Washington, DC 20520

To Whom It May Concern:

The Council on Accreditation respectfully submits its
Comments on the proposed regulations to implement the 1993 Hague Convention
on Protection of Children and Cooperation in Respect of Intercountry
Adoption (the Convention) and the Intercountry Adoption Act of 2000 (IAA).

While the proposed regulations are well developed, we
believe that the attached suggested revisions will help to clarify and
facilitate the accreditation process while setting a high standard for
service delivery in intercountry adoption.

COA recognizes that drafting regulations to promote positive
intercountry adoption practice has been a challenging task given the
complexity of the subject matter and the diversity of opinion among those
groups with an interest in the regulations. The willingness of the State
Department to incorporate many revisions during earlier public comment
periods, including those suggested by COA, is to be commended. The process
has unquestionably been fair and open.

COA believes that to seek additional public comment and to
further delay implementation will also delay the benefits that will accrue
to children and families here and abroad from the accreditation process.

Sincerely,

Richard Klarberg
President & CEO

Council on Accreditation
120 Wall Street, 11FL
New York, NY 10005
866-COA-8088 | FAX: 212-797-1428

Visit COA's website at: <http://www.coanet.org>
<<Cover letter E version.doc>> <<COAs Comments 12-12-03.doc>>
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COUNCIL ON ACCREDITATION



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BUREAU OF
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**Comments On The Proposed Regulations to implement the
1993 Hague Convention on Protection of Children and Cooperations
in Respect of Intercountry Adoption (the Convention) and A II: 24
the Intercountry Adoption Act of 2000 (IAA)**

Preamble at 54079 D: Recognition of Currently Accredited Agencies

COA recommends "recognition of compliance" with identified duplicative standards for those agencies currently accredited by COA for intercountry adoption services. The Secretary should negotiate the details of this recognition process between the State Department and COA in contract negotiations.

The concept of recognition or "deeming" has been greatly debated during previous discussions of and formal comment on the proposed rules. COA understands the issues and the importance of ensuring the intent of the IAA is achieved in setting and proving compliance with high-quality standards of practice for intercountry adoption services. Furthermore, recognition of compliance is not an exception to accreditation, but is simply an equitable mechanism for crediting established compliance with requirements that have parity with those of Hague Convention Accreditation.

In order to comment on the use of recognition, COA has completed a comprehensive crosswalk between the proposed rules and COA's *Standards and Self-Study Manual, 7th Edition* (See Attachment A). This crosswalk identifies COA's standards that match those in the proposed rules and specifically identifies those that are "sufficiently similar." In addition, COA has created a chart noting the specific citation of proposed rules and COA standards that are "sufficiently similar" (see Attachment B). Given these documented similarities, COA recommends recognition for currently accredited organizations providing intercountry adoption services.

In principle, offering recognition to previously accredited agencies delivering intercountry adoption services is completely consistent with the IAA as a mechanism for recognizing proven compliance with those standards that are sufficiently similar to standards in the proposed, and eventually the final, rules. The process of recognition promotes efficiency of the accreditation process by eliminating a duplication of efforts on the part of both the organization and the accrediting entity. This is particularly significant given the human resource and financial impacts required by the accreditation process and the ambitious timeframe the State Department expects for the completion of the initial accreditation cycle.

COA encourages the State Department to allow currently COA accredited organizations to receive credit for compliance with a State Department approved list of standards. COA will hold these organizations accountable for all other Hague Convention Accreditation standards. Recognition provides no unfair benefit to currently accredited agencies, as they will not be able to assume that they will achieve full accreditation without responding to a significant number of additional standards. In sum, all intercountry adoption providers will be held to the exact same requirements regardless of their current voluntary accreditation status, however the documentation and review of duplicative standards (highlighted in this response and the attached crosswalk) would be unnecessary. This recommended recognition is only relevant during initial accreditation cycle and need not be addressed by the regulations in perpetuity.



96.2

In order to provide clarification, COA recommends the State Department add the following definitions: post adoption services, complaint, cancellation of accreditation, and suspension of accreditation to § 96.2.

Post Adoption Services

The standards in § 96.50 and § 96.51 address post placement monitoring and post adoption services respectively. No definitions are provided, and the content and the intent of section § 96.51 are unclear without such definitions. COA recommends the addition of a definition for post placement monitoring. COA recommends the following definition be added for post adoption services:

post adoption services: the provision of supportive services to adoptive families to promote the well-being of adoptees and families; the stability of adoptive placements; and the prevention of adoption disruption or dissolution. Supportive services may include, but are not limited to: family education, information and referral, psychosocial services, mediation, problem solving and support groups.

Complaint

The proposed regulations do not define what constitutes a "complaint." Organizations function with diverse definitions for this concept and additionally distinguish it from grievance and/or disagreement. Without guidance and universal understanding of what constitutes a "complaint," agencies or persons may circumvent any rules for reporting complaints with a very narrow definition, rendering the complaint process somewhat meaningless in reality.

An agency should have internal mechanisms to deal with issues that may arise from a client before such an issue becomes formalized. These issues may be defined as complaints. If the issue is not resolved, a formal process begins, which is often defined as a grievance. If formal grievances cannot be resolved internally, an agency may offer resolution by a neutral third party. The definition of compliant should also specify whether anonymous complaints can be considered.

On another note, when conducting a review of an agency or person, accrediting entities will privy to a variety of information, which is unrelated to the intercountry adoption service. For example, a multi-service agency may have complaints related to their foster care or group home service which are unrelated to the adoption program. COA recommends the definition of complaint be limited to the complaints related to Hague adoptions.

Accreditation

COA recommends that the State Department add a definition for accreditation. This definition should clarify that the regulations in 22CFR Part 96 address "Hague Accreditation," not other voluntary processes for the accreditation for intercountry adoption services. COA feels that the lack of specificity in using the term "accreditation" throughout the regulations discounts the idea COA will continue to a voluntary process for the accreditation of intercountry adoption services not subject to the requirements of the Hague Convention. While this voluntary accreditation process will certainly be in line with the concepts embedded in the Hague Convention, and the IAA, it will likely go beyond those requirements/provisions in a more thorough evaluation of an organization. COA advocates for the value of its own voluntary accreditation process and urges the State Department to recognize the distinction between "Hague Accreditation" and "COA Accreditation."

Cancellation or Suspension of Accreditation

There is no explanation of the difference between cancellation of accreditation and suspension of accreditation. Unless defined, accrediting entities may utilize differing definitions of "suspension" undermining the uniformity the regulations seek.



To differentiate suspension from cancellation, a suspension should have a limited time frame, and rather than require an agency to renew their entire accreditation, the agency's accreditation should be restored after a site visit where the agency demonstrates substantial compliance in those areas that caused the suspension.

It is unclear if the term "suspension" suggests that the entity is no longer accredited, thus requiring the transfer of adoption cases. If the purpose of the suspension provision was to allow an entity a short period of time to take corrective action and come into compliance with the standards, it seems burdensome and counterproductive to have to transfer its adoption cases to another entity. The transfer of cases will cause disruption to all prospective adoptive families and children and may not be warranted for a short period of time during which an entity would be taking corrective action.

Alternatively, COA recommends that the regulations reassess whether "suspension" is a necessary category. COA recommends that the regulations develop another category in place of suspension that creates a step between requiring corrective action and cancellation. This category should be "probation, with required corrective action." While on probation, an agency would still be accredited, however, the designation would convey to the public that there were extensive issues that required corrective action. The "probation" status would not require the entity to transfer its adoption cases. COA currently utilizes this category.

Subpart B

COA recommends the State Department add language to limit the liability of accrediting entities.

COA recommends that the State Department add a section in Subpart B, or any more relevant section, that expressly limits the rights of any individual or entity other than an accredited entity or an entity that has been refused accreditation to bring an action against the accreditors. Such a provision is consistent with §504 of the IAA. In the event such a provision is not included, the regulations should expressly extend to the accreditors, as service providers under agreement with the State Department, any and all immunities granted to the State Department.

A provision limiting the liability of accrediting entities will facilitate a fair and timely accreditation process. Without such a limitation, accrediting entities may find it difficult to recruit evaluators (peer reviewers) because such individuals may not be willing to accept the risk of being involved in litigation - even if they are indemnified by the accreditor. Furthermore, evaluators and decision makers may base a decision regarding accreditation - positive or adverse - in order to diminish the likelihood of litigation.

Without a limit of liability, the cost of accreditation would be significantly higher by virtue of the need for the accrediting entities to purchase substantial insurance. Given that insurance coverage for adoption service providers may not be widely attainable, third parties (e.g., adoptive parents, adoptees or biological parents) seeking legal recourse would be more likely to name the accrediting entity than the adoption service provider in a lawsuit.

In the event the State Department cannot or will not limit liability vis-à-vis accrediting entities, it must recognize that as subcontractors of the State Department, the accrediting entities would seek to protect its interests by impleading the State Department in any such litigation.

In consequence of the foregoing, COA *strongly* recommends that liability vis-à-vis accrediting entities should remain with, and be limited to, the adoption service providers as provided in the IAA and that such limitation be expressly referenced in the regulations.

§ 96.4 (c)

COA recommends the State Department clarify the provision related to the jurisdiction of public entities.

It is unclear what jurisdiction public entities would have over organizations or individuals that provide services in multiple states. This provision should specify whether or not jurisdiction is defined by: the state in which the organization is incorporated in; the states in which the organization or person is licensed in; or the states in which the organization provides services.



COA is concerned about the states entities' ability to fully evaluate compliance with the standards if an agency or person has offices in multiple states, but is limited in its evaluation capacity or authority. State entities would potentially be required to travel to other states to review records, interview clients, and conduct other on-site activities. It is unclear if their jurisdiction, which is limited to within their state, allows for evaluation of or in offices located outside of the state.

§ 96.6(f)

COA recommends the State Department revise this section to clarify the appropriateness of relationships between accrediting bodies and membership associations.

The phrase "operates independently of" is vague. Membership associations have traditionally played a valuable role in the development and support of accrediting bodies. Membership associations provide the expertise and knowledge of specific practice areas, resources for standards and accreditation process development, and provide consultation and technical assistance to organizations seeking to achieve accreditation. COA strongly advocates for the protection of the right to engage in such relationships with membership organizations as long as the appropriate protections are in place.

COA recommends that the State Department revise this regulation using the following language:

"that membership associations do not have an inappropriate influence on the accrediting body, and that the accrediting body has conflict-of-interest policies that address their relationships with membership associations."

§ 96.7(a) 8

COA recommends that this requirement for accrediting bodies (and all subsequent references) be deleted.

COA strongly objects to any involvement of the accrediting bodies in the transfer of cases when an organization ceases to operate. Involvement in the transfer of cases is inappropriate as it potentially puts the accrediting body in the position of have to chose or make recommendations regarding which agencies should get the cases that need to be transferred. Given the financial ramifications of such transfers, the accrediting bodies would be unable to fairly make recommendations or selections among the vast number of agencies that may seek to become accredited. COA recommends that adoptive applicants first be asked if they have a preference as to which entity their case is transferred to. In addition, the accredited and approved entities should have a plan specifying the transfer process in the case of a suspension of services. If the State Department is seeking to have an external body provide oversight of the transition of cases, it should do so through state licensing authorities in each state, as many of these authorities already provide such oversight/assistance.

§ 96.8(a) 2

COA recommends that the State Department maintain the provision allowing the accrediting bodies to revise fee schedules with approval from the State Department.

Over time, the cost of providing accreditation services is likely to increase and accrediting body should be allowed to revise fee schedules appropriately. In addition, the accrediting body will not be able to develop a realistic fee scale until the final regulations are published and the expected duties of the accreditor are confirmed.

§ 96.10

COA recommends that the State Department add criteria to this section specifying the process for submitting complaints about the Complaint Registry.

The regulations should specify how complaints against the Complaint Registry would be processed. COA recommends that such complaints be handled in the same way complaints about the accrediting bodies will be processed.



§ 96.13

COA recommends that State Department add a provision to this section specifying the process for accrediting/approving entities when new countries ratify the Hague Convention.

While these regulations do not govern the practice of intercountry adoption services in or with children from non-Hague-party countries, it is expected that additional countries will ratify the Hague Convention in the future. COA recommends the State Department clarify the applicability of the accreditation mandate in as additional countries ratify the Hague Convention. In addition, COA recommends the State Department encourage agencies working in non-Hague countries voluntarily seek accreditation, thus increasing the impact these regulations will have on the best interests of all internationally adopted children.

* § 96.14 (a)

COA applauds the State Department for requiring that a primary provider must be identified in each adoption. This is critical to ensuring the continuity of services and the provision of all required adoption services to a child and family.

* § 96.19 (c)

COA is in favor of the establishment of a transitional application date (TAD) and the provision allowing the accrediting bodies to use their own discretion in accepting applications beyond the TAD. In addition, COA supports the notion that accreditors cannot be held responsible for the assurance that entities that apply after the TAD will complete the process before the deadline for initial accreditation (DIA). COA supports and the provision that the DIA will be determined by the accrediting bodies and the State Department after the TAD in order to properly estimate the amount of time it will take to complete the initial cycle of accreditation/approval.

* § 96.24 (a)

This provision requires evaluators to have experience in intercountry adoption or the evaluation of compliance with standards. While COA believes that experience in both is preferred, in order to ensure that accreditation and approval can be conducted in a timely fashion the accreditor must be initially allowed to use some evaluators that may not have experience in intercountry adoption. For example, COA believes it is critical to have evaluators with expertise in finance to be able to properly investigate and evaluate an applicant's financial practices and stability. It is not necessary that this evaluator have experience in intercountry adoption.

§ 96.26 (a)

COA recommends the State Department maintain this provision as written.

COA treats most information gathered during the accreditation process as confidential. Information about accreditation status is made publicly available. COA believes that confidentiality is critical to facilitating an open relationship with entities seeking accreditation. Fear of public disclosure may cause applicants to withhold information from accrediting entities. This withholding of information inhibits the accrediting entities ability to conduct a fair and thorough evaluation. In addition, without the protection of confidentiality, evaluators and decision makers may be hesitant to make notations important to the evaluation process if this information may be made public.

COA encourages the provision of a limited amount of information to the public to aid potential clients in selecting an organization or individual to seek services from. COA believes that the provisions of Subpart M in the proposed regulations appropriately specify the types of information that must be made available to the public. The summary of the accreditation or approval study required in §96.90 (b) will provide the public with an adequate amount of information about the organization's compliance with the standards. Agency specific information gathered during the accreditation process beyond what is specified in Subpart M should be protected.



While COA supports the protection of confidential information acquired through the accreditation process, some disclosure to the State Department may be necessary to comply with requirements specified in the Memorandum of Agreement. COA recognizes that the State Department may need access to accreditation information in order to investigate complaints about the actions of an accrediting entity as addressed in § 96.10 of the regulations. The proper entity for evaluating the accrediting bodies is the State Department, not the public. Disclosure of information for purposes of investigating the accrediting entity should be limited to the State Department.

* § 96.27 (c)

COA recommends the State Department add a statement clarifying the accrediting bodies authority to translate the standards in subpart F into measurable accreditation standards without changing the intent of the standard.

It is critical for accreditation standards to be clear and measurable in order for evaluators to assign ratings of compliance to organizations. For example, the language proposed in §96.33 (c) “the agency or person submits copies of each audit” is not a measurable standard, it is the evidence of compliance an accrediting body would likely use to determine compliance with § 96.33 (b). Thus, it is critical that the accreditors be given the authority in the regulations or in the memorandum of agreement to use the standards in subpart F to craft a set of measurable standards for accreditation, subject to final approval from the State Department.

* § 96.27 (d)

COA commends the State Department for allowing the accrediting bodies to develop measurement systems which will not be limited by specification in the regulations. In addition, COA supports the requirement that organizations or persons must achieve substantial compliance with the standards in order to receive accreditation or approval.

§96.33 (e)

COA recommends the State Department clarify the provision requiring cash reserves to meet operating expenses.

In the case of a multi-service agency, it is not clear if “operating expenses” is limited to the entire agency’s operating expenses, or the intercountry adoption program’s operating expenses. COA additionally recommends the State Department reconsider the necessity of requiring a 3 month cash reserve, as it will be burdensome for small or new agencies to do so. Recognizing that the cash reserve is an important protection for prospective adoptive parents and children, other alternatives should be considered, including the availability of finances through other non-cash resources (e.g., assets).

§96.33 (g)

COA recommends the State Department clarify the requirement for an independent professional assessment of risk.

COA’s standards for risk management require the organization to have qualified personnel and internal procedures for the assessment of risk.

- “G11.1.01: The organization evaluates and reduces its potential loss and liability by:
- a. assigning risk management functions to qualified persons whose job descriptions specifically include oversight of risk management; and
 - b. developing a process to identify and analyze the nature, severity, and frequency of risks.”

This internal assessment informs the determination of the appropriate types and levels of insurance an organization should purchase as required by:



"G11.2.01: Annually, the organization evaluates and purchases appropriate types and levels of insurance to ensure adequate coverage.
Interpretation (G11.2.01):

Appropriate types of insurance include, but are not limited to, the following: general liability, workers' compensation, disability, fire and theft, medical, indemnification, professional liability, risk pooling trust, officers' or director's liability, automobile liability, and malpractice. In designated flood plains, this standard requires appropriate purchase of flood insurance."

It is unclear if the State Department's expectation is for the "independent professional" involved to be someone other than the organization's insurance representative. If so, it would constitute an additional cost to the organization.

§96.35(b)(3)

COA recommends that the regulations add the following words "for the provision of adoption-related services" following the words "or person", in order to make it consistent with §96.35(b)(2).

This section creates unwarranted problems for agencies providing multiple services. Take the case of an agency providing both intercountry adoption services and group home services. It is highly conceivable that the licensing body of that organization could impose sanctions for conduct that occurred in the group homes or even revoke that organization's group home license. This, however, may have no effect on the organization's ability to provide intercountry adoption services. Sanctions or suspension of licenses for conduct in a service other than adoption services should not affect an organization's suitability to provide adoption services consistent with the convention.

Moreover, it would overburden any accrediting body to review all negative sanctions against an organization for its entire existence. Such sanction could range from failing to insert a single document in certain records unrelated to adoption services, or for having mold in a daycare center. The consideration of issues unrelated to the provision of Hague adoption services exceeds the scope and stated objectives of the Convention.

COA strongly recommends that the same time limitations should be applied to these section as is set forth for § 96.35(b)(4)

There is no limit on the relevant time frame for this sections. Some agencies have been in existence for over 50 years. Reviewing such information that far back is not only completely unnecessary, it also hinders an accrediting entity's ability to properly evaluate whether an agency, as it currently functions, promotes the best interest of the child and adheres to Convention Standards.

§96.35(c)(2)

COA recommends that this section include a statement that no action needs to be taken by an accrediting body in response to the disclosure of current investigations.

An investigation does not confirm financial irregularities. Many investigations lead nowhere. The accrediting body should not be required to take action until a conviction or negative finding is made.

§ 96.36 (a)

COA recommends that specific examples be provided to clarify the meaning of "other consideration."

The prohibition against the provision of "money or other consideration" is vague. It is unclear if this provision is meant to prohibit any types of gifts or actions. COA believes it would be helpful if the State Department could provide some examples of what could be deemed "other considerations" constituting child buying. COA suggests



that if examples are included, it is noted that the list of examples is not exhaustive and language such as "including but not limited to" is used. Without further specification or examples, it will be difficult for accrediting entities to determine whether an individual or an organization is attempting to improperly induce consent to adopt. COA further recommends the language defining "reasonable payments for activities related to..." not be changed, as it provides an appropriate level of specification which will aid in the review and evaluation process.

§ 96.37 (f)

COA recommends that the State Department reconsider the requirement for homestudy providers to have a master's degree.

Organizations often have difficulty recruiting individuals with advanced degrees. COA recommends that this requirement either be changed to allow for bachelor's level staff under the supervision of staff with master's degrees to conduct homestudies, or be weighted in such a way that non-compliance with this standard does not prohibit an applicant from becoming accredited/approved.

§ 96.41 (f)

COA recommends the State Department eliminate the requirement that organizations provide quarterly reports regarding complaints to the accrediting body.

In order to avoid a costly duplication of efforts, quarterly reports summarizing complaints and corrective actions need not be provided to both the Complaint Registry and the accrediting bodies. If it is the role of the Complaint Registry to identify the trends in complaints, it would seem most appropriate for the quarterly reports to be submitted to the Complaint Registry. If a quarterly report suggests non-compliance with the standards that needs further investigation, the Complaint Registry should then refer the issue to the accrediting body for investigation. Furthermore, COA recommends the State Department reconsider the necessity of quarterly reporting as opposed to semi-annual or annual reporting, as it will likely be a burden to agencies to provide such reports.

§ 96.51 (b)

In order to make 96.51 reflective of post adoption services, COA recommends the State Department revise 96.51 as suggested below.

The proposed standards regarding "post adoption services" require organizations to inform prospective adoptive parents of what, if any, services will be provided by the organization "if an adoption is dissolved."

The use of the term "post adoption services" in this section does not reflect the actual practice of post-adoption services in the adoption field. The accepted practice is to provide post adoption services (after placement or after the legal finalization of the adoption) to support the placement and *prevent* disruption or dissolution. Post adoption services are critical to ensuring the support of adoptive placements and reducing the number of adoption disruptions. Omitting standards for post adoption services as defined above from the regulations is detrimental to the best interests of the child and the family and undermines the objectives of these regulations, the Convention and the IAA.

COA recommends the following definition be used for post adoption services:

post adoption services: the provision of supportive services to adoptive families when requested to promote the well-being of adoptees and families; the stability of adoptive placements; and the prevention of adoption disruption or dissolution. Supportive services may include, but are not limited to: family education, information and referral, psychosocial services, mediation, problem solving and support groups.

If the recommended definition of post adoption service does not reflect 96.51's intent, COA recommends the State Department use a term other than "post adoption services" to describe the intent of 96.51.



Although post-adoption services are not included in the definition of "adoption service," or in the minimum standards required by IAA, COA recommends that the State Department maintain the requirement for the provision of post adoption services in 96.51 as defined by COA's suggested definition.

If COA's recommended definition is adopted COA recommends the following revisions:

- 96.51 (a) Delete the original language as it is redundant with 96.50 (a).
- 96.51 (b) Replace the original language with:
"The agency or person informs the prospective adoptive parent(s) in the written adoption contract that the agency or person will provide post adoption services directly or by referral when requested by the family."
- 96.51 (c) The current 96.51 (c) really addresses post placement monitoring. The current 96.50 (c) really addresses post adoption services. Therefore, they should be switched.
- 96.51 (e) Delete the phrase "If the agency or person voluntarily provides post adoption services."

§ 96.63

COA recommends that the regulations may also develop another status for an agency that has already been accredited where the corrective action required might exceed the expiration date by only short time period.

In COA's current accreditation process, an accreditation decision can be deferred for up to nine months past the expiration date. The deferral is used to give agencies an opportunity to implement corrective action without losing their accreditation status. It is unclear whether the regulations allow the time allotted for a deferral (time given for an agency to correct any problems) to exceed the original accreditation expiration date. COA believes that the regulations should clarify this. The State Department may consider the addition of another status for an agency that has already been accredited where the corrective action required might exceed the expiration date by only short time period. Such a status could be Probation, with corrective action required. This would prevent an agency from going out of business where transfers of cases to another agency may take as long as to correct the corrective action.

§ 96.66(a)

COA recommends that the regulations clarify the duties of an accrediting agency to effectively monitor accredited/approved entities annually.

The State Department should specify, that the accrediting bodies will monitor substantial compliance, based on the weighting and rating system to be developed by the accrediting bodies and the State Department. In addition, the regulations should describe the type of monitoring system the accrediting bodies should use (e.g., a report and supporting documentation where an agency attests to have remained in continued substantial compliance with the standards).

§ 96.69(a)(1)-(4)

COA recommends the State Department clarify the types of complaints that can be filed with the Complaint Registry or the accrediting bodies.

This process makes little sense as "cannot be resolved" is ambiguous, allowing for individuals to file complaints when they are dissatisfied with resolution transforming an accrediting entity into appeal board for dissatisfied individuals. The regulations should prohibit such practice.

The regulations should specify that only complaints related to the provision of services in a Hague adoption could be filed with the complaint registry or the accrediting bodies. Since the accrediting body can only evaluate compliance with the standards and determine accreditation status, it can only investigate complaints related to the standards.



COA recommends that a complainant exhaust all possible remedies, including arbitration and appeals before filing the complaint with the Complaint Registry. COA strongly advocates that in order to ensure that complaints that can be remedied are weeded out, all should be exhausted.

§96.75 (b)

COA recommends that the regulations adopt another designation, probation, in substitution for suspension.

It is unclear if the term "suspension" suggests that the entity is no longer accredited, thus requiring the transfer of adoption cases. If the purpose of the suspension provision was to allow an entity a short period of time to take corrective action and come into compliance with the standards, it seems burdensome and counterproductive to have to transfer its adoption cases to another entity.

Alternatively, COA recommends that the regulations reassess whether "suspension" is a necessary category. COA recommends that the regulations develop another category in place of suspension that creates a step between requiring corrective action and cancellation. This category should be "probation, with required corrective action." While on probation, an agency would still be accredited, however, the designation would convey to the public that there were extensive issues that required corrective action. The "probation" status would not require the entity to transfer its adoption cases. COA currently utilizes this category.

96.75(d) & 96.76 (b)

COA recommends the requirement for the accredited agency or approved person to take specific corrective action to bring itself into compliance, not be considered an adverse action.

The interplay between these sections needs to be examined. The first states that corrective action is one form of "adverse action" while the later allows for corrective action prior to taking any adverse action. It is inconsistent to state that corrective action is required before any adverse action can be taken, but corrective action constitutes adverse action. Perhaps referring to any corrective action prior to an adverse decision as interim corrective action would avoid any confusion. If an accredited/approved entity has been required to revise a procedure in response to a complaint before any adverse action is taken and the procedure is properly revised there is no need for adverse action.

COA also recommends that language should be added to this section to clarify whether adverse action can be taken based on an issue not indicating unsubstantial compliance. The proposed regulations require only substantial compliance. It is possible that a complainant does implicate non-compliance with a standard but does not result in substantial non-compliance. As the preamble to these proposed regulations state: "One-time failures to comply with such social work practice standards, which inherently are evolving, though unfortunate, should not form the sole basis for the imposition of the severe types of adverse action such as cancellation of accreditation or approval."

§ 96.75(c)

COA recommends that the accrediting entity's "sanction" function be limited to remedying the agency's compliance with accreditation standards.

With regard to "sanctions" as a form of adverse action, COA currently does not provide case-specific relief, e.g., requiring a Hague body to cease providing adoption services in a particular case. Instead, COA's current adverse actions are related to the accreditation status of the agency. An accrediting body can only require an accredited/approved entity to come into compliance with the standards. The accredited/approved entity should have the authority and independence to decide how it can come into compliance. The accrediting bodies can review the proposed plan to come into compliance with the standards to determine if it is appropriate, but should not be required, or allowed to impose specific sanctions.



§ 96.79

COA recommends that the regulations should promote the use of alternative dispute resolution forums as a substitute for such a federal court action.

The provision allowing an accredited/approved entity to petition the US district court could potentially be a financial and resource burden to the accrediting entity and the accredited/approved entity. COA recommends the State Department include a provision for alternative dispute resolution. This can be accomplished by allowing accrediting entities to utilize dispute resolution clauses in the contracts with agencies or persons seeking accreditation or approval. COA recommends adding to the end of section (c) the following:

"Nothing in the foregoing sections limits the accrediting entity's discretion to utilize alternative dispute resolution forums prior to judicial review of any final adverse actions."

§ 96.91 and § 96.92

COA recommends the State Department review the language in § 96.91 and § 96.92 to ensure the reporting requirements are clear and accurate.

The preamble states that the "publication and dissemination" of the "this information." The provisions should specify what is meant by publish and disseminate, as they are quite different, and dissemination could be quite costly depending upon the methods of dissemination. The rules at § 96.91 states that specific information needs to be "made available" as opposed to "published." Section 96.92 (which discusses complaints) requires only verification upon inquiry of complaints. It does not state an accrediting entity needs to publish this information. It would be helpful if the language in these sections specified what methods and scope will be required.

§ 96.91(a)-(b)

COA suggests that an accrediting agency be afforded the discretion to make the specified information available on a more regular basis.

It is unclear if the directive to make certain information listed in these subsections limits the disclosure of the information to quarterly or only when requested as applicable. COA suggests that an accrediting agency be afforded the discretion to make the information available on a more regular basis. For example, it can publish the information on its website. The regulations should add a subsection which states:

"Nothing in this section limits an accrediting entities discretion to publish or otherwise disclose to the public the information listed in subsections (a) and (b) on a more frequent and/or continuous basis."

§ 96.93

COA recommends the State Department clarify the timeframe for reporting adverse actions.

It is unclear when the requirement to report an adverse action is triggered. Is it once the agency is notified of the determination or after the time for reconsideration has expired? This should be clarified. COA recommends that if an adverse action should be reported prior to the time for reconsideration expires, the accrediting entity indicate this with the notation "subject to reconsideration." This must also be clarified in order to determine at what point an entity must begin to transfer its cases, if required to do so.

* § 96.100 (b)

COA supports the provision allowing the accrediting body to use its discretion in determining when a site-visit is necessary to evaluate an applicant organization for temporary accreditation status. In order to ensure the temporary accreditation process is not burdensome and costly to small organizations it is important for the accrediting bodies to rely primarily, if not exclusively, on documentation for the evaluation of temporary accreditation status.



The Provision of Final Regulations

COA discourages the State Department from publishing an additional set of draft regulations prior to the publication of final regulations. The publication of another set of draft regulations will significantly delay the ratification of the Hague Convention in the United States. The current public comment period should offer the adoption community an appropriate amount of time to comment on the regulations and propose revisions. It seems unlikely that after receiving public comment the State Department will need to seek additional review.

COA recognizes that the State Department will likely receive significant comments on several of the proposed standards, as they may seem unachievable (e.g., the insurance requirement). While no clear solution may be evident at this time, it is unlikely that one will be provided for in a second public comment period.

COA further recommends that such issues identified in the standards be considered by the accrediting entities and the State Department when they develop a weighting and rating system. Those standards that may be unachievable at this time should not be weighted in such a way that prohibits the achievement of accreditation/approval. Since the weighting/rating system is not specified in the regulations and it can be revised by the accrediting bodies and the State Department, the weighting of those standards could be reconsidered at a later time.



CREDIBILITY • INTEGRITY • ACHIEVEMENT

Intercountry Adoption Standards Crosswalk:

Council On Accreditation Standards and
the Department of State Proposed Standards for
Intercountry Adoption Service Providers

December 2003

Introduction

The Council on Accreditation (COA) is pleased to provide you with a comparison of COA's *Standards and Self-Study Manual, 7th Edition*, published in 2001, and the State Department's Proposed Regulations issued in September of 2003 to implement the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (the Convention) and the Intercountry Adoption Act (the IAA). This project was undertaken by COA's Standards Development and Performance Measurement Division to examine the complementary aspects of the standards and the proposed regulations in response to requests from the State Department and organizations accredited by COA.

Eligibility for Accreditation

An organization is eligible for COA accreditation when it provides at least one of the services accredited by COA; holds all required governmental licenses/certifications for its services; has provided services to consumers for at least 6 months at the time of application; and is sufficiently autonomous to permit its review as a distinct legal entity.

Process of Accreditation

COA accreditation requires the review of organization and management practices, and of all an organization's services for which COA has standards. COA's accreditation process includes a self-study phase, a site-visit phase, a decision making phase, and an annual report of compliance. In addition, COA investigates third party complaints and self-reports of non-compliance when necessary to determine if corrective action or an accreditation status change is required. COA accreditation is valid for 4 years.

The Crosswalk

The crosswalk is designed to provide the full text of the State Department's proposed standards and relevant portions of the related COA standards. The State Department standards are located in left hand column, and the COA standards are in the middle column. The right hand column provides a brief comment on the similarity of the standards.

This comparison illustrates that the standards are compatible in the following areas:

- state licensing;
- internal structure and oversight;
- budget, audit, insurance and risk assessment;
- compensation;
- educational and experience requirements for social service personnel;
- training for social service personnel;
- fee policies and procedures;
- responding to complaints and improving service delivery;
- adoption records;
- using supervised providers in the US;
- preparation of homestudies;
- preparation and training of prospective adoptive parent(s); and
- placement and post-placement monitoring.

Questions or comments about the crosswalk may be directed to Jayne Pietras at jpietras@conect.org.

PROPOSED RULE/TEXT	COA CITATION AND TEXT	COMMENT
Licensing and Corporate Governance		
96.30 State Licensing	<p>a The agency or person is properly licensed or otherwise authorized by State law to provide adoption services in at least one State.</p> <p>b The agency or person follows applicable State licensing and regulatory requirements in all jurisdictions in which it provides adoption services.</p> <p>c If it provides adoption services in a State in which it is not itself licensed or authorized to provide such services, the agency or person does so only through agencies, persons, or other entities that are licensed or authorized by State law to provide adoption services in that State.</p> <p>d In the case of a person, the individual or for-profit entity is not prohibited by State law from providing adoption services in any State where it is providing adoption services, and does not provide adoption services in Convention countries that prohibit individuals or for-profit entities from providing adoption services.</p>	<p>S15.2: The organization is sanctioned by the state or province of operation, as applicable, as a licensed adoption organization that may deliver adoption and/or intercountry adoption services in compliance with the Hague Convention on Intercountry Adoption</p> <p>G11.3.01: The organization complies with all applicable federal, state or provincial, and local laws and regulations associated with service delivery; and possesses all relevant licenses.</p> <p>S15.2.03: The organization that collaborates with and/or accepts home studies and post-placement services from other providers does so only with licensed adoption organizations or other appropriately credentialed individuals, according to applicable state or provincial licensing regulations.</p>
96.31 Corporate structure	<p>a The agency qualifies for non-profit tax treatment under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or for non-profit status under the laws of any State.</p> <p>b The person is an individual or is a for-profit entity organized as a corporation, company, association, firm, partnership, society, or joint stock company, or other legal entity under the laws of any State.</p>	<p>S15.2: The organization is sanctioned by the state or province of operation, as applicable, as a licensed adoption organization that may deliver adoption and/or intercountry adoption services in compliance with the Hague Convention on Intercountry Adoption</p> <p>G3.4.01(a, b): The organization is legally authorized to operate as one of the following: a not-for-profit organization with its own governing body that is incorporated in the state or province in which it operates or is headquartered, and has a duly promulgated charter, constitution, and/or bylaws; or a not-for-profit organization that is organized as an identified sub-unit of another legal entity recognized under state or provincial law.</p> <p>G3.4.01(c): The organization is legally authorized to operate as one of the following: a for-profit organization that is organized as a corporation, partnership, sole proprietorship, or association, and has a duly promulgated charter, partnership agreement, articles of association, constitution, and/or bylaws.</p>
96.32 Internal structure and oversight	<p>a The agency or person has a chief executive officer or equivalent official who is qualified by education, adoption service experience, and management credentials to ensure effective use of resources and coordinated delivery of the services provided by the agency or person, and has authority and responsibility for management and oversight of the staff in carrying out the adoption-related functions of the organization. (This standard does not apply where the person is an individual, families, and/or children.)</p>	<p>G4.9.01: The chief executive officer is qualified by:</p> <ul style="list-style-type: none"> a. an advanced degree from an accredited college or university in a field related to the organization's services; b. at least five years of related experience; c. assessed competence in administering and providing services to individuals, families, and/or children;

PROPOSED RULES TEXT	COA CITATION AND TEXT	C	NT
individual practitioner.	<p>g. management skills in addressing human resources and financial matters, and</p> <p>e. the ability to coordinate the organization's services with other community resources.</p> <p>²</p>		
b) The agency or person has a board of directors or similar governing body that establishes and approves its mission, policies, budget, and programs; provides leadership to secure the resources needed to support its programs; and appoints and oversees the performance of its chief executive officer or equivalent official. This standard does not apply where the person is an individual practitioner.	<p>G3.10: The chief executive officer manages and oversees the organization's daily operations.</p> <p>G3.1.01: The organization maintains a written statement of its purpose or mission that is formally reviewed by the governing body at least once every four years in light of changing community conditions.</p> <p>G3.6: The governing body is responsible for adopting policies, guiding organizational development, overseeing financial management, and ensuring the organization's accountability to the public.</p> <p>G3.7.01 (a, d): The not-for-profit and publicly held for-profit organization's governing body</p> <p>a. appoints and orient the chief executive officer; and</p> <p>d. oversees the chief executive officer.</p> <p>G3.5.07: The governing body and/or advisory board maintains up-to-date minutes and records generated from all meetings</p>	Sufficiently Similar	
c) The agency or person keeps permanent records of the meetings and deliberations of its governing body and its major decisions affecting the delivery of adoption services.		Sufficiently Similar	
Financial and Risk Management			
96.35 Budget, audit, insurance and risk assessment requirements.	<p>G6.2.02: The organization has a written budget that serves as a plan for managing its financial resources for the fiscal year.</p> <p>G6.2.04: The governing body reviews and approves the budget prior to the beginning of the fiscal year</p> <p>G6.5.02: An organization that annually reports its revenues at or in excess of \$500,000, or is otherwise required, undergoes an audit of its financial statements.</p> <p>G6.5.03: An organization that annually reports less than \$500,000 in revenues and is not otherwise required to file an audit undergoes a review of financial statements, with management letter if applicable.</p> <p>G6.5.02: PRE-SITE Provide a copy of the most recent audit, opinion letter, and any accompanying management letter.</p> <p>G6.5.03: PRE-SITE: Provide a copy of the most recent review of financial statements and any accompanying management letter.</p>	Sufficiently Similar	
a) The agency or person operates under a budget approved by its governing body, if applicable, for management of its funds.			
b) The agency's or person's finances are subject to independent annual audits.			
c) The agency or person submits copies of each audit, as well as any accompanying management letter or qualified opinion letter, for inspection the accrediting entity.			
d) The agency or person meets the financial reporting requirements of Federal and State laws and regulations.			
e) The agency's or person's balance sheets show that it operates on a sound financial basis and generally maintains sufficient cash reserves or other financial resources to meet its operating expenses for three months, taking into account its projected volume of cases.			

PROPOSED RULES TEXT	COA CITATION AND TEXT	SUFFICIENTLY SIMILAR	NOT-SUFFICIENTLY-SIMILAR
If it accepts donations, the agency/person has safeguards in place to ensure that such donations do not influence child placement decisions in any way.	<p>S15.3.04: The organization follows a policy that prohibits solicitation and acceptance of contributions from adoptive applicants, or from persons acting on the applicant's behalf, during the period of application or before an application has been completed, unless:</p> <ul style="list-style-type: none"> a. such contributions are associated with requests made to other persons served by the organization and to the public; and b. donation history and placement decisions are kept separate, insofar as possible. 	<p>G11.2.01: Annually, the organization evaluates and purchases appropriate types and levels of insurance to ensure adequate coverage.</p> <p>Interpretation (G11.2.01): Appropriate types of insurance include, but are not limited to, the following: general liability, workers' compensation, disability, fire and theft, medical indemnification, professional liability, risk pooling trust, officers' or director's liability, automobile liability, and malpractice. In designated flood plains, this standard requires appropriate purchase of flood insurance.</p> <p>G11.2.01: Annually, the organization evaluates and purchases appropriate types and levels of insurance to ensure adequate coverage.</p>	<p>G11.2.02: The organization ensures that all personnel and governing body members who sign checks, handle cash or contributions, or manage funds are bonded at the organization's expense, or the organization maintains appropriate insurance coverage to cover potential losses.</p>
The agency or person uses an independent professional assessment of the risks it assumes as the basis for determining the type and amount of professional, general, directors' and officers', and other liability insurance to carry. The risk assessment includes an evaluation of the risks of using supervised providers as provided for in § 96.45 and § 94.46 and of providing adoption services to clients who, consistent with § 96.39(d), will not sign blanket waivers of liability.	The agency or person maintains insurance in amounts reasonably related to its exposure to risk, including the risks of providing services through supervised providers, but in no case in an amount less than \$1,000,000 per occurrence.	The agency or person's chief executive officer, chief financial officer, and other officers or employees with direct responsibility for financial transactions or financial management of the agency or person are bonded.	Sufficiently Similar
96.34 Compensation	<p>a) The agency or person does not compensate any individual providing intercountry adoption services with incentive fees for each child placed for adoption or on a similar contingent fee basis.</p> <p>b) The agency or person compensates its directors, officers, employees, and supervised providers who provide intercountry adoption services only for services actually rendered and only on fee-for-service, hourly wage, or salary basis rather than a contingent fee basis.</p> <p>c) The agency or person does not make any payments, promise payment, or give other consideration to any individual directly or indirectly involved in provision of adoption services in a particular case, except for salaries or fees for services actually rendered and reimbursement for costs incurred. This does not prohibit an agency or person from providing in-kind or other donations not intended to influence or affect a particular adoption.</p> <p>d) The fees, wages, or salaries paid to the directors, officers, and employees of the agency or person are not unreasonably high in relation to the services actually rendered, taking into account the location, number, and qualifications of staff, workload requirements, budget, and size of the agency or person, and available norms for compensation within the intercountry adoption community.</p>	<p>S15.3.03: Organizational policy prohibits actual or promised payment or other consideration to any party who is directly or indirectly involved in the administration of intercountry adoption services, whether acting as an employee or independent contractor, except for the performance of routine, professional duties necessary to successfully complete the adoption process.</p>	<p>G4.2.02: The governing body and/or management set salary and benefit scales according to:</p> <ul style="list-style-type: none"> a. prevailing labor market trends for all employees in non-unionized settings; and/or b. the current collective bargaining agreement, in the case of a unionized organization <p>G3.7.04: The not-for-profit governing body reviews the fairness of chief executive officer compensation and benefits on an annual basis in relationship to industry practices and federal requirements.</p>
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PR.CIT.	PROPOSED RULES TEXT	COACITATION AND ELIXA	C. AGEN
Ethical Practices and Responsibilities		G3.11.06: Governing body members do not accept honoraria from the organization except where permitted by law or the organization's bylaws.	
96.35 Suitability of agencies and persons to provide adoption services consistent with the Convention.	a [The agency or person provides adoption services ethically and in accordance with the Convention's principles of:	(1) Ensuring that intercountry adoptions take place in the best interests of children; S15.1: The organization identifies the child as the primary person served and seeks to provide mutually beneficial relationships in an adoptive family to children who are legally free for adoption and whose legal parents are unwilling or unable to care for them.	
	(2) Preventing the abduction, exploitation, sale, or trafficking of children.	b In order to permit the accrediting entity to evaluate the suitability of an agency or person for accreditation or approval, the agency or person discloses to the accrediting entity the following information relating to the agency or person under its current or any former names:	
	(1) Any instances in which the agency or person has permanently lost the right to provide adoption services in any State or at country, including the basis for such action(s);	(2) Any instances in which the agency or person was debarred or otherwise denied the authority to provide adoption services, including the basis and disposition of such action(s);	
	(3) Any licensing suspensions for cause or other negative sanctions by oversight bodies against the agency or person, including the basis and disposition of such action(s);	(4) For the prior ten-year period, any disciplinary action(s) against the agency or person by a licensing or accrediting body, including the basis and disposition of such action(s);	
	(5) For the prior ten-year period, any written complaint(s) against the agency or person, relating to the provision of adoption-related services, including basis and disposition of such complaint(s);	(6) For the prior ten-year period, any post or pending investigation(s) by Federal or State authorities, criminal charge(s), child abuse charge(s), malpractice complaint(s), or lawsuit against the agency or person, related the provision of adoption-related services, and the basis and disposition of such action(s);	
	(7) Any instances where the agency person has been found guilty of any crime under Federal, State, or foreign law or any civil or administrative violations under Federal, State, or foreign law involving financial irregularities;	(8) For the prior five-year period, any instances where the agency or person has filed for bankruptcy, and	
	(9) Descriptions of any businesses or activities that are inconsistent with the principles of the Convention and that are currently carried out by an agency person, affiliate organizations, or by any entity in which the agency or person has an ownership or control interest.	c In order to permit the accrediting entity to evaluate the suitability of an agency or person for accreditation or approval, the agency or person also discloses to the	

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CO-CITATION AND FEES

	accrediting entity the following information about its individual directors, officers, and employees.	
(1)	For the prior ten-year period, any conduct by any such individual related the provision of adoption-related services that was subject to external disciplinary proceeding(s);	G4.7.04: Screening procedures for new employees and contractors include appropriate, legally permissible, and mandated reviews of state or provincial criminal history records and civil child abuse and neglect registries to determine the appropriateness of retaining prospective personnel who will:
(2)	Any convictions or current investigations of any such individual who is in a senior financial management position for acts involving financial irregularities;	a. work in residential programs; or b. provide direct services to children, the elderly, or other persons determined by the organization to be vulnerable or at risk.
(3)	The results of a State criminal background check and a child abuse clearance for any such individual in the United States in a senior management position or who works directly with parent(s) and/or children (unless such checks have been included in the State licensing process); and	G4.7.04: Screening procedures for new employees and contractors include appropriate, legally permissible, and mandated reviews of state or provincial criminal history records and civil child abuse and neglect registries to determine the appropriateness of retaining prospective personnel who will:
(4)	A completed FBI Form FD-258 for each such individual in the United States in a senior management position who works directly with parent(s) and/or children, which the agency or person must keep on file in case future allegations warrant submission of the form for a Federal criminal background check of any such individual.	a. work in residential programs; or b. provide direct services to children, the elderly, or other persons determined by the organization to be vulnerable or at risk.
(5)	Descriptions of any businesses or activities that are inconsistent with the principles of the Convention and that are currently carried out by individual directors, officers, or employees of the agency or person	G4.7.04: Screening procedures for new employees and contractors include appropriate, legally permissible, and mandated reviews of state or provincial criminal history records and civil child abuse and neglect registries to determine the appropriateness of retaining prospective personnel who will:
d	In order to permit the accrediting entity to evaluate the suitability of a person who is an individual practitioner for approval, the individual does as follows:	a. work in residential programs; or b. provide direct services to children, the elderly, or other persons determined by the organization to be vulnerable or at risk.
(1)	Provides the results of a State criminal background check and a child abuse clearance to the accrediting entity;	
(2)	Completes and retains a FBI Form FD-258 on file in case future allegations warrant submission of the form for a Federal criminal background check; and	
(3)	If the individual is a lawyer, for every jurisdiction in which he or she has ever been admitted to the Bar, provides a certificate of good standing or an explanation of why he or she is not in good standing, accompanied by any relevant documentation.	
e	Any disciplinary action considered by a State Bar Association, including consideration of an action to disbar an attorney, must immediately be reported by the attorney to the accrediting entity, regardless of whether the action relates to intercountry adoption.	
96.36	Prohibition on child buying	
a	The agency or person prohibits its employees and agents from giving money or other consideration, directly or indirectly, to a child's parent(s), other individual(s), other consideration to any party who is directly or indirectly involved in the	S15.3.03: Organizational policy prohibits actual or promised payment or

PROPOSED RULES TEXT	COA CULATION AND TEXT	INT
<p>or an entity as payment for the child or as an inducement to release the child if permitted or required by the child's country of origin, an agency or person may remit reasonable payments for activities related to the adoption proceedings, prebirth and birth medical costs, the care of the child, or the provision of child welfare and child protection services generally. Permitted or required contributions shall not be remitted as payment for the child or as an inducement to release the child.</p> <p>b) The agency or person has written policies and procedures in place reflecting the prohibitions in paragraph (a) of this section and reinforces them in its employee training programs.</p>	<p>Administration of intercountry adoption services, whether acting as an employee or independent contractor, except for the performance of routine, professional duties necessary to successfully complete the adoption process.</p> <p>S15.3.04: The organization follows a policy that prohibits solicitation and acceptance of contributions from adoptive applicants, or from persons acting on the applicant's behalf, during the period of application or before an adoption has been completed, unless:</p> <ul style="list-style-type: none"> a. such contributions are associated with requests made to other persons served by the organization and to the public; and b. donation history and placement decisions are kept separate, insofar as possible. <p>S15.6.01: The organization ensures that personnel are qualified by training and knowledge to deliver intercountry adoption services.</p> <p>S15.6.04: Professional personnel who provide intercountry adoption services hold appropriate and current state or provincial licences in their professional disciplines, if applicable, and comply with their discipline's code of ethics.</p> <p>S15.6.07: The executive director, supervisor, or the direct social service provider has direct experience in the professional delivery of adoption services.</p> <p>S15.6.01: The organization retains social service supervisory personnel who have prior professional experience in providing family and children's services and possess, at a minimum:</p> <ul style="list-style-type: none"> a. a master's degree from an accredited program of social work education; (1) A master's degree from an accredited program of social work education; (2) A master's degree (or doctorate) in related human service field, including, but not limited to, psychology, psychiatry, psychiatric nursing, counseling, rehabilitation counseling, pastoral counseling, or (3) In the case of a social work supervisor who is or was an incumbent at the time the Convention enters into force for the United States, the supervisor has significant skills and experience in intercountry adoption and has regular access for consultation purposes to an individual with the qualifications listed in paragraph (d)(1) or paragraph (d)(2) of this section. <p>e) Non-supervisory employees. The agency's or person's non-supervisory employees providing adoption-related social services that require the application of clinical skills and judgment other than home studies or child background studies.</p>	<p>8</p>

PR CITE	PROPOSED RULES/TEXT	COACHING AND TEXT	CITE
	(1) Have a master's degree from an accredited program of social work education or in another human service field; or (2) Have a bachelor's degree from an accredited program of social work education; S15.6.02: Direct social service personnel have at least a bachelor's degree from an accredited program of social work education or in another human experience in family and children's services, adoption, or intercountry adoption, or service field and prior experience in family and children's services. Additionally, the non-supervisory employees are supervised by an employee of the accredited agency or approved person who meets the requirements for supervisors in paragraph (f) of this section.		Sufficiently Similar
	Home studies. The agency's or person's employees who conduct home studies: (1) Have a minimum of a master's degree from an accredited program of social work education or a master's degree (or doctorate) in a related human service field, including, but not limited to, psychology, psychiatry, psychiatric nursing, counseling, rehabilitation counseling, or pastoral counseling; (2) Are authorized to complete a home study under the laws of the State of the child's proposed residence; and (3) Meet the INA requirements for home study preparers in 8 CFR 204.3(b) covering home studies in Convention cases.		
	Child background studies. The agency's or person's employees who prepare child background studies have minimum of a master's degree from an accredited program of social work education or a master's degree (or doctorate) in a related human service field, including, but not limited to, psychology, psychiatry, psychiatric nursing, counseling, rehabilitation counseling, or pastoral counseling.		
	96.38 Training requirements for social service personnel. At the agency or person provides newly hired employees who have adoption-related responsibilities involving the application of clinical skills and judgment (home studies, child background studies, counseling services, parent preparation, postplacement and other similar services) with a comprehensive orientation to intercountry adoption that includes training on: (1) The requirements of the Convention, the IAA, the regulations, implementing the IAA, and other applicable Federal regulations; (2) The INA regulations applicable to the immigration of children adopted from a Convention country;	S15.6.05: The organization ensures that all new personnel including any overseas staff or independent contractors that provide intercountry adoption services receive appropriate orientation and training that includes: (1) The adoption laws of any Convention country where the agency or person provides adoption services; (2) Relevant State laws;	S15.6.05 (g): Supervisory and direct social service personnel possess knowledge of intercountry adoption services, including knowledge of rules and regulations of the Immigration and Naturalization Service or Canadian equivalent, as applicable.
			G7.4.05: All new program personnel are oriented on judicial or regulatory issues that affect them, including requirements associated with consent decrees.
			S15.6.05 (a): The organization ensures that all new personnel including any overseas staff or independent contractors that provide intercountry adoption services receive appropriate orientation and training that includes the organization's goals, services, policies, and procedures.
			S15.6.05 (b): The organization ensures that all new personnel including any overseas staff or independent contractors that provide intercountry adoption services receive appropriate orientation and training that includes the organization's goals, services, policies, and procedures.

PROPOSED RULES TEXT	COACHING AND TEXT	ACTION
b The agency or person provides initial training to employees who provide adoption-related social services that involve the application of clinical skills and judgment (home studies, child background studies, counseling services, parent preparation, postplacement and other similar services) that addresses:	overseas staff or independent contractors that provide intercountry adoption services receive appropriate orientation and training that includes: the cultural diversity of the service population.	
(1) The factors in the countries of origin that lead to children needing adoptive families;		
(2) Feelings of separation, grief, and loss experienced by the child with respect to the family of origin;	\$15.6.03 (a): Supervisory and direct social service personnel possess knowledge of intercountry adoption services, including knowledge of: separation and loss from family of origin.	Sufficiently Similar
(3) Attachment and post-traumatic stress disorders;	\$15.6.03 (b, d): Supervisory and direct social service personnel possess knowledge of intercountry adoption services, including knowledge of: bonding to an adoptive family, and post-traumatic stress disorder.	Sufficiently Similar
(4) Psychological issues facing children who have experienced abuse or neglect and/or whose parents' rights have been terminated because of abuse or neglect;		
(5) The impact of institutionalization on child development;		
(6) Outcomes for children placed for adoption internationally, and the most frequent medical and psychological problems experienced by children from the countries of origin served by the agency or person;		
(7) The process of developing emotional ties to an adoptive family;		
(8) Acculturation and assimilation issues, including those arising from factors such as race, ethnicity, religion, and culture and the impact of having been adopted internationally; and	\$15.6.03 (f): Supervisory and direct social service personnel possess knowledge of intercountry adoption services, including knowledge of: bonding to an adoptive family.	Sufficiently Similar
(9) Child, adolescent, and adult development.	\$15.6.05 (b): The organization ensures that all new personnel including any overseas staff or independent contractors that provide intercountry adoption services receive appropriate orientation and training that includes: the cultural diversity of the service population.	
c The agency or person ensures that employees who provide adoption related social services that involve the application of clinical skills and judgment (home studies, child background studies, counseling services, parent preparation, post placement and other similar services) also receive, in addition to the orientation and initial training described in paragraphs (a) and (b) of this section, no less than 20 hours of training each year, or more if required by State law, on current and emerging adoption practice issues (through participation in seminars, conferences, and other similar programs).	\$15.6.06: Direct social service personnel receive at least ten hours of training relevant to the field annually.	
d The agency or person exempts employees from elements of the orientation and training required in paragraphs (a) and (b) of this section only where the employee has prior experience with intercountry adoption and knowledge of the Convention and the IAA.		
Information Disclosure, Fee Practices, and Quality Control Policies and Practices		
96.39 Information disclosure, and quality control practices.		
a The agency or person fully discloses in writing to the general public upon request and to prospective clients (upon initial contact):		
(1) Its adoption service policies and practices, including general eligibility criteria,		

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<p>fees, and the mutual rights and responsibilities of clients and the agency or person;</p> <p>(2) A sample of a contract substantially like the one that the prospective clients will be expected to sign should they proceed; and</p> <p>(3) The entities with whom the prospective client(s) can expect to work the United States and in the child's country of origin and the usual costs associated with their services.</p>		
<p>b The agency or person maintains and makes available upon request to client(s) and prospective client(s) information on:</p> <p>(1) The number of its adoption placements per year for the prior three calendar years, and the number and percentage of those placements that remain intact, are dissolved, or have been dissolved as of the time the information is provided;</p> <p>(2) The number of parents who apply to adopt on a yearly basis, based on data for the prior three calendar years; and</p> <p>(3) The number of children awaiting adoption, when available.</p>	<p>c The agency or person does not give preferential treatment to its board members, contributors, volunteers, employees, agents, consultants, or independent contractors with respect to the placement of children for adoption and has a written policy to this effect.</p> <p>d The agency or person does not require a client or prospective client to sign a blanket waiver of liability in connection with the provision of adoption services in Convention cases.</p> <p>e The agency or person cooperates with reviews, inspections, and audits.</p> <p>f The agency or person uses the internet to place particular children for adoption only where:</p> <p>(1) Such use is not prohibited by applicable State or Federal law or by laws of the child's country of origin;</p>	<p>S15.3.06: Organizational policy prohibits preferential placement decisions regarding children whom the organization might refer for adoption to organization senior management, employees, contractors, or consultants who are adoptive applicants.</p>
<p>g The agency or person uses the internet to place particular children for adoption only where:</p> <p>(1) Such use is not prohibited by applicable State or Federal law or by laws of the child's country of origin;</p> <p>(2) Such use is subject to controls to avoid misuse and links to any sites that reflect practices that involve the sale, abduction, exploitation, or trafficking children;</p> <p>(3) Such use, if it includes photographs, is designed to identify children either who are currently waiting for adoption or who have already been adopted or placed for adoption (and who are clearly so identified); and</p> <p>(4) Such use does not serve as a substitute for the direct provision of adoption services, including services the child, the prospective adoptive parent(s), and/or the birth parent(s).</p>	<p>h Before providing any adoption service to prospective adoptive parent(s), the agency or person itemizes and discloses in writing the following information for each separate category of fees and expenses that the prospective adoptive parent(s) will be charged in connection with a Convention adoption:</p> <p>(1) <i>Home Study.</i> The expected total fees and expenses for home study preparation, whether the home study is to be prepared directly by an accrediting agency or establishes in the case record and informs each person served in writing of the</p>	<p>Sufficiently Similar G11.3.01: The organization complies with all applicable federal, state or provincial, and local laws and regulations associated with service delivery, and possesses all relevant licenses.</p> <p>S15.3.01: The organization complies with all applicable laws or regulations governing fee-setting and informs applicants at the point service is initiated of the conditions under which fees are charged, changed, refunded, waived, or reduced.</p> <p>S15.3.02: Prior to or at the time of service delivery, the organization establishes in the case record and informs each person served in writing of the following:</p> <p>S15.3.02 (a): Prior to or at the time of service delivery, the organization establishes in the case record and informs each person served in writing of the</p>

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temporarily accredited agency, or prepared by a supervised provider, or approved person and reviewed and approved by an accredited agency, or temporarily accredited agency;	following: estimated or actual expenses.	
(2) <i>Adoption expenses in the United States</i> : The expected total fees and expenses for all adoption services other than the home study that will be provided in the United States. This category includes, but is not limited to, personnel costs, administrative overhead, training and education, communications and publications costs, and any other costs related to providing adoption services in the United States;	S15.3.02 (a): Prior to or at the time of service delivery, the organization establishes in the case record and informs each person served in writing of the following: costs in the child's country of origin.	Sufficiently Similar
(3) <i>Foreign country program expenses</i> , all adoption services that will be provided in the child's Convention country. This category includes, but it not limited to, costs for care of the child prior to adoption, costs for personnel, administrative overhead, training, education, and communications, and any other costs related to providing adoption services in the child's Convention country;	S15.3.02 (a): Prior to or at the time of service delivery, the organization establishes in the case record and informs each person served in writing of the following: estimated or actual expenses.	Sufficiently Similar
(4) <i>Translation and document expenses</i> : The expected total fees and expenses for obtaining any necessary documents and for any translation of documents related to the adoption, along with information on whether the prospective adoptive parent(s) will be expected to pay such costs directly, either in the United States or in the child's Convention country, or through the agency or person. This category includes, but is not limited to, costs for obtaining or copying records or documents required to complete the adoption, costs for the child's Convention court documents, passport, adoption certificate and other documents related to the adoption, and costs for notarizations and certifications;	S15.3.02 (a): Prior to or at the time of service delivery, the organization establishes in the case record and informs each person served in writing of the following: estimated or actual expenses.	
(5) <i>Travel and accommodation expenses</i> : The expected total fees and expenses for any travel and accommodation services arranged by agency or person for the prospective adoptive parent(s);	S15.3.02 (a): Prior to or at the time of service delivery, the organization establishes in the case record and informs each person served in writing of the following: estimated or actual expenses.	
(6) <i>Contributions</i> : Any fixed contribution amount that the prospective adoptive parent(s) will be expected or required to make to child protection or child welfare service programs in the child's Convention country or in the United States, along with an explanation of the intended use of the contribution and the manner in which the transaction will be recorded and accounted for; and	S15.3.04: The organization follows a policy that prohibits solicitation and acceptance of contributions from adoptive applicants, or from persons acting on the applicant's behalf, during the period of application or before an adoption has been completed, unless: a. such contributions are associated with requests made to other persons served by the organization and to the public; and b. donation history and placement decisions are kept separate, insofar as possible.	
(7) <i>Post-placement and post-adoption reports</i> : The expected total fees and expenses for any post-placement or post-adoption reports that the agency or person establishes in the case record and informs each person served in writing of the following: estimated or actual expenses.	S15.3.02 (a): Prior to or at the time of service delivery, the organization establishes in the case record and informs each person served in writing of the following: estimated or actual expenses.	Sufficiently Similar
c. The agency or person also specifies in its written adoption contract when and how funds advanced to cover fees or expenses will be refunded if adoption services are not provided.	S15.3.01: The organization complies with all applicable laws or regulations governing fee-setting and informs applicants at the point service is initiated of the conditions under which fees are charged, changed, refunded, waived, or reduced.	
d. When the agency or person uses part of its fees to provide special services, such as cultural programs for adoptee(s), scholarships or other services, it discloses this policy to the prospective adoptive parent(s) in advance of providing any adoption services and gives the prospective adoptive parent(s) an explanation of the use of such funds.		
e. The agency or person has mechanisms in place for transferring funds to		

Convention countries when the financial institutions of the Convention country so permit and for obtaining written receipts for such transfers, so that direct cash transactions by the prospective adoptive parent(s) to pay for adoption services provided in the other Convention country are minimized or unnecessary.	§15.3.01: If the agency or person does not customarily charge additional fees and expenses beyond those disclosed in the adoption contract and has a written policy to this effect, in the event that unforeseen additional fees and expenses are incurred in the other Convention country, the agency or person charges additional fees and expenses only under the following conditions:	<p>(1) It discloses the fees and expenses in writing to the prospective adoptive parent(s);</p> <p>(2) It obtains the specific consent of the prospective adoptive parent(s) prior to expending any funds in excess of \$300 for which the agency or person will hold the prospective adoptive parent(s) responsible or gives the prospective adoptive parent(s) the opportunity to waive the notice and consent requirement in advance. If the prospective adoptive parent(s) has the opportunity to waive the notice and consent requirement in advance, this policy is reflected in the written policies and procedures of the agency or person, and</p> <p>(3) It provides written receipts to the prospective adoptive parent(s) for fees and expenses paid in the Convention country and retains copies of such receipts.</p> <p>g When its delivery of services is completed, the agency or person gives the prospective adoptive parent(s) an accounting of both the total fees and expenses incurred within thirty days of the completion of the delivery of the services.</p> <p>h The agency or person retains any funds to which the prospective adoptive parent(s) may be entitled at the same time that the agency or person provides the accounting required in paragraph of this section.</p>	<p>Responding to Complaints and Records and Reports Management</p> <p>96.41 Procedure for responding to complaints and improving service delivery.</p> <p>a The agency or person has written complaint policies and procedures that incorporate the standards in paragraphs (b) through (h) of this section and provides a copy of such policies and procedures, including contact information for the Complaint Registry, client(s) at the time the adoption contract is signed.</p> <p>G1.8 (a): Written procedures provide applicants and persons served with a formal mechanism for expressing and resolving complaints and grievances, and such procedures:</p> <ul style="list-style-type: none"> a. are given to all applicants at the time of application, and to persons served upon request or at the initiation of a grievance; b. include an appeal procedure; c. provide for a timely resolution of the matter; and d. require a written response to the aggrieved that includes documentation of the response in the case record. <p>b The agency or person permits any birth parent, prospective adoptive parent, or adoptee to lodge a complaint appeal about any of the services or activities of the agency or person that he/she believes are inconsistent with the Convention, the IAA, or the regulations implementing the IAA.</p> <p>c The agency or person responds in writing to complaints within thirty days of receipt, and provides expedited review of complaints that are timesensitive or that involve allegations of fraud.</p> <p>G1.8 (c, d): Written procedures provide applicants and persons served with a formal mechanism for expressing and resolving complaints and grievances, and such procedures:</p> <ul style="list-style-type: none"> c. provide for a timely resolution of the matter; and d. require a written response to the aggrieved that includes documentation of the response in the case record.
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<p>d The agency or person maintains a written record of each complaint and the steps taken to investigate and respond to it and makes this record available to the accrediting entity, the Complaint Registry, or the Secretary upon request.</p> <p>e The agency or person does not take any action to discourage a client or prospective client from, or retaliate against a client or prospective client for, making a complaint, expressing a grievance, questioning the conduct of, or expressing an opinion about the performance of an agency or person.</p> <p>f The agency or person provides to the accrediting entity and the Complaint Registry, on a quarterly basis, a summary of all complaints received during the preceding quarter (including the number of complaints received and how each complaint was resolved) and an assessment of any discernible patterns in complaints received against the agency or person, along with information about what systemic changes, if any, were made or are planned by the agency or person in response to such patterns.</p> <p>g The agency or person provides such other information about complaints received as may be requested by the accrediting entity, the Complaint Registry, or the Secretary.</p> <p>h The agency or person has a quality improvement program appropriate to its size and circumstances through which it makes systematic efforts to improve its adoption services as needed. The agency or person uses quality improvement methods such as reviewing complaint data, using client satisfaction surveys, or comparing the agency's or person's practices and performance against the data contained in the Secretary's annual reports to Congress on intercountry adoptions.</p>	<p>G1.8 (d): Written procedures provide applicants and persons served with a formal mechanism for expressing and resolving complaints and grievances, and such procedures require a written response to the aggrieved that includes documentation of the response in the case record.</p> <p>G2.5.04: At least quarterly, the organization conducts a review of all grievances, incidents, or accidents involving persons served or personnel, including, but not limited to, review of issues related to administering, dispensing, or prescribing medications; when appropriate, and review of environmental risks.</p> <p>G2.11: The organization takes continual action to improve services and promulgate solutions to the issues identified by its CQI activities.</p>	<p>Sufficiently Similar</p>
		<p>G2. The organization demonstrates a commitment to continuous quality improvement (CQI) through implementation of a comprehensive CQI system.</p> <p>G2.1.01: A written CQI document describes the organization's implementation of the processes and activities addressed throughout G2.</p> <p>a. stakeholder participation (G2.2); b. long-term planning (G2.3); c. short-term planning (G2.4); d. internal quality monitoring (G2.5); e. case record review (G2.6); f. outcomes measurement (G2.7); g. measurement of consumer satisfaction (G2.8); h. feedback mechanisms (G2.9); i. information management (G2.10); and j. corrective action (G2.11)</p>
	<p>96.42 Retention, preservation, and description of adoption records.</p>	<p>S15.5.01 (a, c): The organization ensures that the records of persons served: a. are maintained in a confidential and secure manner; and c. comply with legal regulations, including regulations regarding record retention.</p> <p>S15.5.01 (b): The organization ensures that the records of persons served: certain social and medical information that is necessary to provide the service and anticipates the adopted child's and adoptive family's future needs.</p> <p>a The agency or person retains or archives adoption records in a retrievable manner for the period of time required by applicable State law.</p> <p>b The agency or person makes readily available to the adoptee or the adoptive parent(s) upon request all nonidentifying information in its custody about the adoptee's health history or background.</p> <p>c The agency or person preserves and discloses information in its custody about the adoptee's origin, social history, and birth parents' identity in accordance with applicable State law.</p>

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<p>d) The agency or person protects the privacy of birth parent(s), prospective adoptive parent(s), and adoptee(s) to whom adoption services were provided and safeguards sensitive information.</p> <p>S15.501 (a, c): The organization ensures that the records of persons served:</p> <ul style="list-style-type: none"> a. are maintained in a confidential and secure manner; and c. comply with legal regulations, including regulations regarding record retention. 	<p>Sufficiently Similar</p>
<p>e) The agency or person ensures that personal data gathered or transmitted in connection with an adoption is used only for the purposes for which the information was gathered.</p> <p>G11.4.07 (a): The format of electronically transmitted data complies with legal standards and requirements, and the organization uses appropriate formats, codes, and identifiers to ensure the security and privacy of electronically transmitted data as required by law.</p>	<p>Sufficiently Similar</p>
<p>f) The agency or person has a plan that is consistent with the provisions of this section and applicable State law for transferring custody of adoption records that are subject to retention or archival requirements to an appropriate custodian, and ensuring the accessibility of those adoption records, in the event that the agency or person ceases to provide or is no longer permitted to provide adoption services under the Convention.</p>	
<p>g) The agency or person notifies the accrediting entity and the Secretary in writing within thirty days of the time it ceases to provide or is no longer permitted to provide adoption services and provides information about the transfer of its adoption records.</p> <p>96.43 Case tracking, data management, and reporting</p> <p>a) When acting as the primary provider, the agency or person maintains all the data required in this section in a format approved by the accrediting entity and provides it to the accrediting entity on an annual basis.</p> <p>b) When acting as the primary provider, the agency or person generates and maintains reports follows:</p> <p>(1) For cases involving children immigrating to the United States, information and reports on the total number of intercountry adoptions undertaken by the agency or person each year in both Convention and non-Convention cases and, for each case:</p> <ul style="list-style-type: none"> (i) The Convention country or other country from which the child emigrated; (ii) The State to which the child immigrated; (iii) The State, Convention country, or other country in which the adoption was finalized; (iv) The age of the child; and (v) The date of the child's placement for adoption. <p>(2) For cases involving children emigrating from the United States, information and reports on the total number of intercountry adoptions undertaken by the agency or person each year in both Convention and non-Convention cases and, for each case:</p> <ul style="list-style-type: none"> (i) The State from which the child emigrated; (ii) The Convention country or other country to which the child immigrated; (iii) The State, Convention country, or other country in which the adoption was finalized; (iv) The age of the child; and (v) The date of the child's placement for adoption. 	

	(3) For each disrupted placement involving a Convention adoption, information and reports about the disruption, including information on: <ul style="list-style-type: none"> (i) The Convention country from which the child emigrated; (ii) The State to which the child immigrated; (iii) The age of the child; (iv) The date of the child's placement for adoption; (v) The reason(s) for and resolution(s) of the disruption of the placement for adoption, including information on the child's re-placement for adoption and final legal adoption; (vi) The names of the agencies or persons that handled the placement for adoption; and (vii) The plans for the child;
	(4) Wherever possible, for each dissolution of a Convention adoption, information and reports on the dissolution, including information on: <ul style="list-style-type: none"> (i) The Convention country from which the child emigrated; (ii) The State to which the child immigrated; (iii) The age of the child; (iv) The date of the child's placement for adoption; (v) The reason(s) for and resolution(s) of the dissolution of the adoption, to the extent known by the agency or person; (vi) The names of the agencies or persons that handled the placement for adoption; and (vii) The plans for the child;
	(5) Information on the shortest, country of origin, calculated from the time the child is matched with the prospective adoptive parent(s) until the time the adoption is finalized by a court, exclusive any period for appeal;
	(6) Information on the range of adoption fees, including the lowest, highest, average, and the median of such fees, set forth by the child's country of origin, charged by the agency or person for Convention adoptions involving children immigrating to the United States in connection with their adoption.
	c If the agency or person provides adoption services in cases not subject to the Convention that involve a child emigrating from the United States for the purpose of adoption or after an adoption has been finalized, it provides such information directly to the Secretary and as required by the Secretary and demonstrates to the accrediting entity that it has provided this information.
	d The agency or person provides any of the information described in paragraphs (a) through (c) of this section to the accrediting entity or the Secretary within thirty days of request.
Service Planning and Delivery	
96.44	Acting as primary provider.
	a When required by § 96.14(a), the agency or person acts as primary provider and adheres to the provisions in § 96.14(b) through (e). When acting as the primary provider, the agency or person provides either directly or through arrangements Interpretation (G9.4): The organization must view its services as part of a

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	<p>with other accredited agencies, temporarily accredited agencies, approved persons, supervised providers, exempted providers, public bodies, competent authorities, or public authorities, all six adoption services listed in § 96.2, and develops and implements a service plan for providing all six of the required adoption services.</p>	<p>continuum and ensures that persons and families receive service, care, or treatment through an integrated system of settings based on their individual wishes and needs. COA expects organizations to provide service coordination when it is appropriate for the organization to do so, and/or when no other organization has assumed that responsibility. Service coordination activities may include:</p> <ul style="list-style-type: none"> • coordinating among professionals and organizations from whom the person or family receives services; • arranging for direct provision of services, referrals, and transfers of persons served with other organizations, as necessary; • providing ongoing communication, including written agreements, as necessary with other involved providers; and • exchanging relevant information when individuals are admitted, referred, transferred, or discharged. 	<p>G11.9.02: The organization periodically monitors contractor progress toward fulfilling the terms of the contract.</p>
	<p>b The agency or person has an organizational structure, financial and personnel resources, and policies and procedures in place that demonstrate that the agency or person is capable of acting as a primary provider in any Convention adoption case and, when acting as the primary provider, provides appropriate supervision to supervised providers in accordance with §§ 96.45 and 96.46.</p>	<p>G11.8.05 (a): The organization establishes expectations that the contractors meet applicable licensing standards.</p>	<p>Sufficiently Similar</p>
	<p>96.45 Using Supervised Providers in the United States.</p> <p>a The agency or person, when acting as the primary provider and using supervised providers in the United States to provide adoption services, ensures that each such supervised provider:</p> <ol style="list-style-type: none"> (1) Is in compliance with applicable State licensing and regulatory requirements in all jurisdictions in which it provides adoption services; (2) Does not engage in practices inconsistent with the Convention's principles of furthering the best interests of the child and preventing the sale, abduction, exploitation, or trafficking of children; and (3) Before entering into an agreement with the primary provider for the provision of adoption services, discloses to the primary provider the suitability information listed in § 96.35. 	<p>G11.8.05 (a): The organization establishes expectations that the contractors meet applicable licensing standards.</p>	<p>Sufficiently Similar</p>
	<p>b The agency or person, when acting as the primary provider and using supervised providers in the United States to provide adoption services, ensures that each such supervised provider operates under a written agreement with the primary provider that:</p> <ol style="list-style-type: none"> (1) Clearly identifies the adoption service(s) to be provided by the supervised provider and requires that the service(s) be provided in accordance with the applicable service standard(s) for accreditation and approval (for example: home study (§ 96.47), parent training (§ 96.48), child background studies and consents (§ 96.53)); 	<p>G11.7.04: The organization, whether as purchaser or vendor, uses written purchase of service agreements or written contracts that contain all significant terms and conditions in accordance with applicable law.</p> <p>"Significant terms" include, but are not limited to:</p> <ol style="list-style-type: none"> a. roles and responsibilities of participating organizations; and b. services to be provided 	<p>G11.7.04 (a, b): The organization, whether as purchaser or vendor, uses written purchase of service agreements or written contracts that contain all significant terms and conditions in accordance with applicable law.</p> <p>"Significant terms" include, but are not limited to:</p> <ol style="list-style-type: none"> a. roles and responsibilities of participating organizations; and b. services to be provided
	<p>(2) Requires the supervised provider to comply with the following standards regardless of the type of adoption services it is providing: § 96.36 prohibition on child-buying, § 96.34 compensation, § 96.38 (employee training), § 96.39 (d) (blanket waivers of liability), and § 96.41(a) through (c) complaints).</p>	<p>G11.7.04 (a): The organization, whether as purchaser or vendor, uses written purchase of service agreements or written contracts that contain all significant terms and conditions in accordance with applicable law.</p> <p>Interpretation (G11.7.04):</p> <ol style="list-style-type: none"> (1) Requires the supervised provider to comply with the following standards regardless of the type of adoption services it is providing: § 96.36 prohibition on child-buying, § 96.34 compensation, § 96.38 (employee training), § 96.39 (d) (blanket waivers of liability), and § 96.41(a) through (c) complaints). 	<p>G11.7.04 (a): The organization, whether as purchaser or vendor, uses written purchase of service agreements or written contracts that contain all significant terms and conditions in accordance with applicable law.</p> <p>Interpretation (G11.7.04):</p> <ol style="list-style-type: none"> (1) Requires the supervised provider to comply with the following standards regardless of the type of adoption services it is providing: § 96.36 prohibition on child-buying, § 96.34 compensation, § 96.38 (employee training), § 96.39 (d) (blanket waivers of liability), and § 96.41(a) through (c) complaints).

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	"Significant terms" include, but are not limited to: a. roles and responsibilities of participating organizations.
(3) Identifies specifically the lines of authority between the primary provider and the supervised provider, the employee of the primary provider who will be responsible for supervision, and the employee of the supervised provider who will be responsible for ensuring compliance with the written agreement;	G11.7.04 (a): The organization, whether as purchaser or vendor, uses written purchase of service agreements or written contracts that contain all significant terms and conditions in accordance with applicable law. <i>Interpretation (G11.7.04):</i> "Significant terms" include, but are not limited to: a. roles and responsibilities of participating organizations.
(4) Clearly states the compensation arrangement for the services to be provided and the fees and expenses to be charged by the supervised provider;	G11.7.04 (b): The organization, whether as purchaser or vendor, uses written purchase of service agreements or written contracts that contain all significant terms and conditions in accordance with applicable law. <i>Interpretation (G11.7.04):</i> "Significant terms" include, but are not limited to: i. a plan and procedure for timely payment.
(5) Specifies whether the supervised provider's fees and expenses will be billed to and paid by the client(s) directly or billed to the client through the primary provider;	G11.7.04 (b): The organization, whether as purchaser or vendor, uses written purchase of service agreements or written contracts that contain all significant terms and conditions in accordance with applicable law. <i>Interpretation (G11.7.04):</i> "Significant terms" include, but are not limited to: i. a plan and procedure for timely payment.
(6) Provides that, if billing the client(s) directly for its service, the supervised provider will give the client(s) an itemized bill of all fees and expenses to be paid, with a written explanation of how and when such fees and expenses will be refunded if the service is not completed, and will return any funds collected to which the client(s) may be entitled within thirty days of the completion of the delivery of services;	G11.7.04 (a): The organization, whether as purchaser or vendor, uses written purchase of service agreements or written contracts that contain all significant terms and conditions in accordance with applicable law. <i>Interpretation (G11.7.04):</i> "Significant terms" include, but are not limited to: a. roles and responsibilities of participating organizations.
(7) Requires the supervised provider to meet the same personnel qualifications as accredited agencies and approved persons, as provided for in § 96.37;	
(8) Provides that the primary provider will retain legal responsibility for each case in which adoption services are provided, as required by paragraph (c) of this section;	G11.7.04 (a): The organization, whether as purchaser or vendor, uses written purchase of service agreements or written contracts that contain all significant terms and conditions in accordance with applicable law. <i>Interpretation (G11.7.04):</i> "Significant terms" include, but are not limited to: a. roles and responsibilities of participating organizations.
(9) Requires the supervised provider to protect the privacy of the individuals it serves, safeguard sensitive information, and ensure that personal data gathered or transmitted in connection with an adoption is used only for the purposes for which the information was gathered;	
(10) Requires the supervised provider to respond within a reasonable period of time to any request for information from the primary provider, the Secretary, or the accrediting entity that issued the primary provider's accreditation or approval;	G11.7.04 (g): The organization, whether as purchaser or vendor, uses written purchase of service agreements or written contracts that contain all significant terms and conditions in accordance with applicable law. <i>Interpretation (G11.7.04):</i> "Significant terms" include, but are not limited to: g. Policies and procedures for sharing information.
(11) Requires the supervised provider to provide the primary provider's reporting basis any data that is necessary to comply with the primary provider's reporting requirements;	
(12) Requires the supervised provider to disclose promptly to the primary provider any changes in the suitability information required by § 96.35;	
(13) Permits suspension or termination of the agreement on reasonable notice if the primary provider has grounds to believe that the supervised provider is not in	Sufficiently Similar purchase of service agreements or written contracts that contain all significant terms and conditions in accordance with applicable law. <i>Interpretation (G11.7.04):</i> "Significant terms" include, but are not limited to: a. roles and responsibilities of participating organizations.

compliance with the agreement or the requirements of this section.

Terms and conditions in accordance with applicable law.
Interpretation (G11.7.94): "Significant terms" include, but are not limited to:
i. conditions for termination.

c The agency or person, when acting as the primary provider and using supervised providers in the United States to provide adoption services, does the following in relation to risk management:

(1) Assumes tort, contract, and other civil liability to the prospective adoptive parent(s) for the supervised provider's provision of the contracted adoption services and its compliance with the standards in this subpart V; and

(2) Maintains a bond, escrow account, or liability insurance in an amount sufficient to cover the risks of liability arising from its work with supervised providers.

d Nothing in this section shall be construed as prohibiting the primary provider from obtaining indemnification or from seeking damages or other redress from a supervised provider for breach of contract, or from pursuing any other legal claim against such supervised provider arising from the provision of contracted adoption services.

96.46 Using supervised providers in other convention countries.

a The agency or person, when acting as the primary provider and using foreign supervised providers to provide adoption services in other Convention countries, ensures that each such foreign supervised provider:

(1) Is in compliance with the laws of the Convention country in which it operates;

(2) Does not engage in practices inconsistent with the Convention's principles of furthering the best interests of the child and preventing the sale, abduction, exploitation, or trafficking of children;

(3) Before entering into an agreement with the primary provider for the provision of adoption services, discloses to the primary provider the suitability information listed in § 96.35, taking into account the authorities in the Convention country that are analogous to the authorities identified in that section; and

(4) Does not have a pattern of licensing suspensions or other sanctions and has not lost the right to provide adoption services in any jurisdiction for reasons germane to the Convention.

b The agency or person, when acting as the primary provider and using foreign supervised providers to provide adoption services in other Convention countries, ensures that each such foreign supervised provider operates under a written agreement with the primary provider that:

(1) Clearly identifies the adoption service(s) to be provided by the foreign supervised provider;

(2) Requires the foreign supervised provider, if responsible for obtaining medical or social information on the child, to comply with the standards in § 96.49(d) through (i);

(3) Requires the foreign supervised provider to prohibit child buying by any of its employees and agents; to have a written policy prohibiting its employees and agents from giving money or other consideration, directly or indirectly, to a child's parent(s), other individual(s), or an entity as payment for the child or as an inducement to release the child, other than reasonable or required payments for activities related to the adoption proceedings, pre-birth and birth medical costs, the

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<p>care of the child, or the provision of child welfare and child protection services generally; and to provide training to its employees and agents on this policy;</p> <p>(4) Requires the foreign supervised provider to compensate its directors, officers, and employees who provide intercountry adoption services on a fee-for-service, hourly wage, or salary basis, rather than based on whether a child placed for adoption or on a similar contingent fee basis;</p>	<p>(5) Identifies specifically the lines of authority between the primary provider and the foreign supervised provider, the employee of the primary provider who will be responsible for supervision, and the employee of the supervised provider who will be responsible for ensuring compliance with the written agreement;</p> <p>(6) Clearly states the compensation arrangement for the services to be provided and the fees and expenses to be charged by the foreign supervised provider;</p> <p>(7) Specifies whether the foreign supervised provider's fees and expenses will be billed to and paid by the client(s) directly or billed to the client through the primary provider;</p>
<p>(8) Provides that, if billing the client(s) directly for its service, the foreign supervised provider will give the client(s) an itemized bill of all fees and expenses to be paid, with a written explanation of how and when such fees and expenses will be refunded if the service is not completed, and will return any funds collected to which the client(s) may be entitled within thirty days of the completion of the delivery of services;</p>	<p>(9) Provides that the primary provider will retain legal responsibility for each case in which adoption services are provided, as required by paragraph (e) of this section;</p>
<p>(10) Requires the foreign supervised provider to respond within a reasonable period of time to any request for information from the primary provider, the Secretary, or the accrediting entity that issued the primary provider's accreditation or approval;</p>	<p>(11) Requires the foreign supervised provider to provide the primary provider on a timely basis any data that is necessary to comply with the primary provider's reporting requirements;</p>
<p>(12) Requires the foreign supervised provider to disclose promptly to the primary provider any changes in the suitability information required by § 96.35; and</p>	<p>(13) Permits suspension or termination of the agreement on reasonable notice if the primary provider has grounds to believe that the foreign supervised provider is not in compliance with the agreement or the requirements of this section.</p>
<p>c. The agency or person, when acting as the primary provider and using foreign supervised providers to provide adoption services in other Convention countries, does the following in relation to risk management:</p>	<p>(1) Assumes tort, contract, and other civil liability to the prospective adoptive parent(s) for the foreign supervised provider's provision of the contracted adoption services and its compliance with the standards in this subpart F; and</p> <p>(2) Maintains a bond, escrow account, or liability insurance in an amount sufficient to cover the risks of liability arising from its work with foreign supervised providers.</p>
<p>d. Nothing in this section shall be construed as prohibiting the primary provider from obtaining indemnification or from seeking damages or other redress from a foreign</p>	

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	supervised provider for breach of contract, or from pursuing any other legal claim against such supervised provider arising from the provision of contracted adoption services.			
	Standards for Cases in Which a Child is Immigrating to the United States (Incoming cases)			
96.47	Preparation of home studies in incoming cases.			
	a. The agency or person ensures that a home study on the prospective adoptive parent(s) is completed that includes the following:			
	(1) Information about the prospective adoptive parents' identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, and the characteristics of the children for whom the prospective adoptive parent(s) would be qualified to care (specifying in particular whether they are willing and able to care for a child with special needs);	\$15.4.02 (e): These services addressed in §15.4.01 include: determination of the ability of the adoptive applicants to meet the needs of an internationally adopted child and preparation of a home study report.		
	(2) A determination whether the prospective adoptive parent(s) are eligible and suited to adopt;	\$15.4.02 (e): These services addressed in §15.4.01 include: determination of the ability of the adoptive applicants to meet the needs of an internationally adopted child and preparation of a home study report.		
	(3) A statement describing the counseling and training provided to the prospective adoptive parent(s);	\$15.4.02 (e): These services addressed in §15.4.01 include: determination of the ability of the adoptive applicants to meet the needs of an internationally adopted child and preparation of a home study report.		
	(4) The results of a criminal background check on the prospective adoptive parent(s) and any other individual for whom a check is required by 8 CFR 204.3(c);			
	(5) A full and complete statement of all facts relevant to the eligibility and suitability of the prospective adoptive parent(s) to adopt a child under any specific requirements identified to the Secretary by the Central Authority of the child's country of origin; and			
	(6) A statement in each copy of the home study that it is a true and accurate copy of the home study that was provided to the prospective adoptive parent(s) or DHS.			
b.	The agency or person ensures that the home study is performed in accordance with 8 CFR 204.3(e), and any applicable State law.			
c.	Where the home study is not performed in the first instance by an accredited agency or temporarily accredited agency (that is, it was initially prepared by an approved person or an exempted provider), the agency or person ensures that the home study is reviewed and approved in writing by an accredited agency or temporarily accredited agency. The written approval must include a determination that the home study:	\$15.2.04: Adoption studies that are conducted by or under the supervision of the organization meet organization requirements and applicable state or provincial standards and comply with the minimum standards established for international adoption studies by the United States Immigration and Naturalization Service or Canadian equivalent.		
d.	(1) Includes all of the information required by paragraph (a) of this section and is performed in accordance with CFR 204.3(e), and applicable State law; and	\$15.2.03: The organization that collaborates with and/or accepts home studies and post-placement services from other providers does so only with licensed adoption organizations or other appropriately credentialed individuals, according to applicable state or provincial licensing regulations.		
	(2) Was performed by an individual who meets the personnel qualifications in § 96.37(f), or, if the individual is an exempted provider, ensure that the individual meets the requirements for home study providers established by CFR 204.3(b).			
	d. The agency or person takes all appropriate measures to ensure the timely transmission of the same home study that was provided to the prospective adoptive			

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parents) or to DDIS (including any supplemental statement to the home study) to the Central Authority or other competent authority of the child's country of origin.		
96.48 Preparation and training of prospective adoptive parent(s) in incoming cases.	<p>a The agency or person provides prospective adoptive parent(s) with at least ten hours (independent of the home study) of preparation and training, as described in paragraphs (b) and (c) of this section, designed to promote a successful intercountry adoption. The agency or person provides such training before the prospective adoptive parent(s) travel to adopt the child or the child is placed with the prospective adoptive parent(s) for adoption.</p> <p>b The training provided by the agency or person addresses the following topics:</p> <ul style="list-style-type: none"> (1) The intercountry adoption process, the general characteristics and needs of children awaiting adoption, and the incountry conditions that affect children in the Convention country from which the prospective adoptive parent(s) plan to adopt; (2) The effects on children of malnutrition, relevant environmental toxins, maternal substance abuse, and of any other known genetic, health, emotional, and developmental risk factors associated with children from the expected country of origin; (3) Information about the impact on a child of leaving familiar ties and surroundings, as appropriate to the expected age of the child; (4) Data on institutionalized children and the impact of institutionalization on children, including the effect on children of the length of time spent in an institution and of the type of care provided in the expected country of origin; (5) Information on attachment disorders and other emotional problems that institutionalized or traumatized children and children with a history of multiple caregivers may experience, before and after their adoption; (6) Information on the laws and adoption processes of the expected country of origin, including foreseeable delays and impediments to finalization of an adoption; (7) Information on the long-term implications for a family that has become multicultural through intercountry adoption; and (8) An explanation of any reporting requirements associated with Convention adoptions, including any post-placement or post-adoption reports required by the expected country of origin. <p>c The agency or person also provides the prospective adoptive parent(s) with training that allows them to be as fully prepared as possible for the adoption of a particular child. This includes counseling on:</p> <ul style="list-style-type: none"> (1) The child's history and cultural, racial, religious, ethnic, and linguistic background; 	<p>S15.4.02: These services addressed in S15.4.01 include:</p> <ul style="list-style-type: none"> a. orientation to intercountry adoption, the adoption process, organizational procedures, and the characteristics of children needing adoption; b. disclosure of the general criteria by which the organization determines eligibility for adoptive parenthood; c. determination of the ability of the adoptive applicants to meet the needs of an internationally adopted child and preparation of a home study report, and d. preparation for parenting and placement of an internationally adopted child. <p>15.4.02 (a): Those services addressed in S15.4.01 include: orientation to intercountry adoption, the adoption process, organizational procedures, and the characteristics of children needing adoption.</p> <p>15.4.02 (a): Those services addressed in S15.4.01 include: orientation to intercountry adoption, the adoption process, organizational procedures, and the characteristics of children needing adoption.</p> <p>S15.4.02 (b): Those services addressed in S15.4.01 include: preparation for parenting and placement of an internationally adopted child.</p> <p>S15.4.02 (a): Those services addressed in S15.4.01 include: orientation to intercountry adoption, the adoption process, organizational procedure, and the characteristics of children needing adoption.</p> <p>15.4.02 (a): Those services addressed in S15.4.01 include: orientation to intercountry adoption, the adoption process, organizational procedures, and the characteristics of children needing adoption.</p> <p>S15.4.07: The organization provides counseling to prospective adoptive parents that includes assistance in understanding the child's cultural, religious, ethnic, or linguistic background and the impact of leaving familiarities and surroundings, as appropriate to the age of the child</p> <p>S15.4.07: The organization provides counseling to prospective adoptive parents that includes assistance in understanding the child's cultural, religious, ethnic, or linguistic background and the impact of leaving familiarities and surroundings, as appropriate to the age of the child</p>

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	(2) the known health risks in the specific region or country where the child resides; and	S15.4.02 (a): Those services addressed in S15.4.01 include: orientation to intercountry adoption, the adoption process, organizational procedures, and the characteristics of children needing adoption.
	(3) Any other medical, social, and other data known about the particular child.	S15.4.03 (e): Services addressed in S15.4.01 also include full disclosure of all information available to the organization regarding the child's medical and social history as part of the referral information.
	d The agency or person provides such training through appropriate methods, including:	
	(1) Collaboration among agencies or persons to share resources to meet the training needs of parents;	
	(2) Group seminars offered by the agency or person or other agencies or training entities;	
	(3) Individual counseling sessions;	
	(4) Videos, computer-assisted, or distance learning methods using standardized curricula;	
	(5) In cases where training cannot otherwise be provided, an extended home study process, with a system for evaluating the thoroughness with which the topics have been covered.	
	e The agency or person provides additional in-person, individualized counseling and preparation, as needed, to meet the needs of the parent(s) in light of the particular child(ren) to be adopted and his or her special needs, and any other training or counseling needed in light of the child background study or the home study.	
	f The agency or person provides the prospective adoptive parent(s) with information about print, internet, and other resources available for continuing to acquire information about common behavioral, medical, and other issues; connecting with parent support groups, adoption clinics and experts; and seeking appropriate help when needed.	
	g The agency or person exempts prospective adoptive parent(s) from all or part of the training and preparation that would normally be required for a specific adoption only where the parent(s) have received adequate prior training or have prior experience as parent(s) of children adopted from abroad.	
	h The agency or person records the nature and extent of the training and preparation provided to the prospective adoptive parent(s) in the adoption record.	
96.49	Provision of medical and social information in incoming cases.	S15.4.03 (e): Services addressed in S15.4.01 also include full disclosure of all information available to the organization regarding the child's medical and social history as part of the referral information.
	a The agency or person provides a copy of the child's medical records to the prospective adoptive parent(s) at least two weeks before either the adoption or placement for adoption, or the date on which the prospective adoptive parent(s) travel to the other Convention country to complete all procedures in such country relating to the adoption or placement for adoption, whichever is earlier.	
	b To the fullest extent practicable, the agency or person provides the prospective adoptive parent(s) with a correct and complete English-language translation of the records and, where the medical records provided pursuant to paragraph (a) of this section are a summary or compilation of other medical records, the agency or person provides a copy of the original medical records used to create that summary or compilation if the original medical records are available.	
	c The agency or person provides the prospective adoptive parent(s) with an opportunity to arrange another translation of the records, including a translation	

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into a language other than English, if needed.	<p>d) The agency or person itself uses reasonable efforts, or requires its supervised provider or agent in the child's country of origin who is responsible for obtaining medical information about the child on behalf of the agency or person to use reasonable efforts, to obtain available information, including in particular:</p> <p>(1) The date that the Convention country or other child welfare authority assumed custody of the child and the child's condition at that time;</p> <p>(2) History of any significant illnesses, hospitalizations, and changes in the child's condition since the Convention country or other child welfare authority assumed custody of the child;</p> <p>(3) Growth data and developmental status at the time of the child's referral for adoption; and</p> <p>(4) Specific information on the known health risks in the specific region or country where the child resides.</p> <p>e) If the agency or person provides medical information to the prospective adoptive parent(s) from an examination by a physician or from an observation the child by someone who is not a physician, the information includes:</p> <p>(1) The name and credentials of the physician who performed the examination or the individual who observed the child;</p> <p>(2) The date of the examination or observation;</p> <p>(3) If the medical information includes references, descriptions, or observations made by any individual other than the physician who performed the examination or the individual who performed the observation, the identity of that individual, the individual's training, and information on whether the individual relied on objective data or subjective perceptions in drawing on her conclusions;</p> <p>(4) A review of hospitalizations, significant illnesses, and other significant medical events, and the reasons for them;</p> <p>(5) Information about the full range of any tests performed on the child, including tests addressing known risk factors in the child's country of origin; and</p> <p>(6) Current health information.</p> <p>f) The agency or person itself uses reasonable efforts, or requires its supervised provider or agent in the child's country of origin who is responsible for obtaining social information about the child on behalf of the agency or person to use reasonable efforts, to obtain available information, including in particular:</p> <p>(1) Information about the child's history and cultural, racial, religious, ethnic, and linguistic background; and</p> <p>(2) Information about all of the child's past and current placements prior to adoption, including information on who assumed custody and provided care for the child.</p> <p>g) Where any of the information listed in paragraphs (d) and (f) of this section cannot be obtained, the agency or person documents in the adoption record the efforts made to obtain the information and why it was not obtainable.</p> <p>h) Where available, the agency or person provides information for contacting the examining physician on the individual who made the observations to any physician</p>

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i) engaged by the prospective adoptive parent(s), upon request.	
i) The agency or person ensures that videotapes and photographs of the child are identified by the date on which the videotape or photograph was recorded or taken.	
j) Neither the agency or person nor its agents withhold from or misrepresent to the prospective adoptive parent(s) any medical, social, or other pertinent information concerning the child.	S15.4.06: The organization provides prospective adoptive parents appropriate time and support to consider a child's referral.
k) The agency or person does not withdraw a referral until the prospective adoptive parents) have had at least a week (unless extenuating circumstances involving the child's best interests require a more expedited decision) to consider the needs of the child and their ability to meet those needs, and to obtain physician review of medical information and other descriptive information, including videotapes of the child.	
96.50 Placement and post-placement monitoring until final adoption in incoming cases.	
a) The agency or person takes all appropriate measures to ensure that the transfer of the child takes place in secure and appropriate circumstances, with properly trained and qualified escorts, if used, and, if possible, in the company of the prospective adoptive parent(s).	S15.5.02 (a): Post-placement services include: providing post-placement reports on the child's progress, when requested by the country of origin and when not in conflict with the law or public policy of the United States or Canada, as applicable, or of the state or province of official residence of the adoptive parents or parent.
b) After the child is placed with the prospective adoptive parent(s) prior to the adoption, the agency or person monitors and supervises the child's placement to ensure that the placement remains in the best interests of the child, and ensures that at least the number of home visits required by State law or by the child's country of origin are performed, whichever is greater.	S15.5.02 (b): Post-placement services include: counseling or referral to counseling for adoptive parents and the adopter, when an adoptive placement is in crisis.
c) When a placement for adoption is in crisis, the agency or person makes an effort to provide or arrange for counseling by an individual with appropriate skills to assist the family in dealing with the problems that have arisen.	S15.5.02 (c): Post-placement services include: re-placement of the child if the adoptive placement is disrupted before finalization.
d) When counseling in a placement for adoption that is in crisis does not succeed in resolving the crisis and the placement is disrupted, the agency or person assuming custody of the child assumes responsibility for making another placement of the child.	
e) The agency or person acts promptly and in accord with any applicable legal requirements to remove the child when the placement may no longer be in the child's best interests, to provide temporary care, to find an eventual adoptive placement for the child, and, in consultation with the Secretary, to inform the Central Authority of the child's country of origin about any new prospective adoptive parent(s).	
(1) In all cases where removal of a child from a placement is considered, the agency or person considers the child's views when appropriate in light of the child's age and maturity and, when required by State law, obtains the consent of the child prior to removal.	
(2) The agency or person does not return from the United States a child placed for adoption in the United States unless the Central Authority of the country of origin and the Secretary have approved the return in writing.	
f) The agency or person includes in the written adoption contract with the prospective adoptive parent(s) a plan describing the agency's or person's responsibilities if a placement for adoption is disrupted. This plan addresses:	
(i) Who will have legal and financial responsibility for transfer of custody in an	

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emergency or in the case of impeding disruption and for the care of the child;			
(2) If the disruption takes place after the child has arrived in the United States, under what circumstances the child will, as a last resort, be returned to the child's country of origin, if that is determined to be in the child's best interests;			
(3) How the child's wishes, age, length of time in the United States, and other pertinent factors will be taken into account; and			
(4) How the Central Authority of the child's country of origin and the Secretary will be notified.			
g. The agency or person provides post-placement reports until final adoption on a child to the other Convention country when required by the other Convention country. Where such reports are required, the agency or person:	\$15.5.02 (a): Post-placement services include: providing post-placement reports on the child's progress, when requested by the country of origin and when not in conflict with the law or public policy of the United States or Canada, as applicable, or of the state or province of official residence of the adoptive parents or parent.	Sufficiently Similar	
(1) Informs the prospective adoptive parent(s) of the requirement prior to the referral of the child for adoption;	G1.J: The organization informs all persons served of their rights and responsibilities and provides sufficient information for them to make an informed choice about using the organization's services.		
(2) Informs the prospective adoptive parent(s) that they will be required to provide all necessary information for the report(s); and	G1.J: The organization informs all persons served of their rights and responsibilities and provides sufficient information for them to make an informed choice about using the organization's services.		
(3) Discloses who will prepare the reports and the fees that will be charged.	\$15.5.02 (b): Prior to or at the time of service delivery, the organization establishes in the case record and informs each person served in writing of the following: a schedule of fees.		
h. The agency or person takes steps to:			
(1) Ensure that an order declaring the adoption as final is sought by the prospective adoptive parent(s), and entered in compliance with section 301(c) of the IAA (Pub. L. No. 106-279, section 301(c), 42 U.S.C. 14931(c)), and	\$15.4.03 (d): Services addressed in \$15.4.01 also include: assurance that the adoption of the child is completed.		
(2) Notify the Secretary of the finalization of the adoption within thirty days of the entry of the order.			
96.51 Post-adoption services in incoming cases.			
a. The agency or person takes all appropriate measures to ensure that the transfer of the child takes place in secure and appropriate circumstances, with properly trained and qualified escorts, if used, and, if possible, in the company of the adoptive parent(s).			
b. The agency or person either informs the prospective adoptive parent(s) in the written adoption contract that the agency or person will not provide services if an adoption is dissolved or provides a plan describing the agency's or person's responsibilities, if any, if an adoption is dissolved.			
c. When post-adoption reports are required by the child's country of origin, the agency or person includes a requirement for such reports in the adoption contract and makes good-faith efforts to encourage adoptive parent(s) to provide such reports.	\$15.5.03 (e): The organization provides post-adoption services as appropriate under the laws of the child's country of origin and the United States or Canada, as applicable, upon request by members of the adoption triad that include: e. Post-adoption reports on the progress of the child when requested by the child's country of origin and when not in conflict with law or public policy of the United States or Canada, as applicable, or of the state or province of official residence of the adoptive parents or parent		
d. The agency or person does not return from the United States an adopted child whose adoption has been dissolved unless the Central Authority of the country of			

<p>origin and the Secretary have approved the return in writing.</p> <p>c If the agency or person voluntarily provides post-adoption services, it ensures that the individual providing such services has knowledge of post-adoption issues and, if possible, of the legal, social, cultural, and emotional issues pertinent to the particular adoption case in which it is involved.</p> <p>96.52 Performance of Hague Convention communication and coordination functions in incoming case.</p> <p>a The agency or person keeps the Central Authority of the other Convention country and the Secretary informed about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.</p> <p>b The agency or person takes all appropriate measures, consistent with the procedures of the other Convention country, to:</p> <ul style="list-style-type: none"> (1) Transact on a timely basis the home study to the Central Authority or other competent authority of the child's country of origin; (2) Obtain the child background study, proof that the necessary consents to the child's adoption have been obtained, and the necessary determination that the prospective placement is in the child's best interests, from the Central Authority or other competent authority in the child's country of origin; (3) Provide confirmation that the prospective adoptive parent(s) agree to the adoption to the Central Authority or other competent authority in the child's country of origin; and (4) Transmit the determination that the child is or will be authorized to enter and reside permanently in the United States to the Central Authority or other competent authority in the child's country of origin. <p>c The agency or person takes all necessary and appropriate measures, consistent with the procedures of the other Convention country, to obtain permission for the child to leave his or her country of origin and to enter and reside permanently in the United States.</p> <p>d Where the transfer of the child does not take place, the agency or person returns the home study on the prospective adoptive parent(s) and/or the child background study to the authorities that forwarded them.</p> <p>²The agency or person takes all necessary and appropriate measures to perform any tasks in a Convention adoption case that the Secretary identifies are required to comply with the Convention, the IAA, or any regulations implementing the IAA.</p>	<p>S15.5.03 (a): The organization provides post-adoption services as appropriate under the laws of the child's country of origin and the United States or Canada, as applicable, upon request by members of the adoption triad that include: delivery of services by qualified personnel who have prior experience in post-adoption service and knowledge about the legal, social, cultural, and emotional issues pertinent to adoption.</p> <p>S15.4.03: Services addressed in S15.4.01 also include:</p> <ul style="list-style-type: none"> a. obtaining assurances that, at placement, the child is legally free for international adoption at the time of placement; b. following standard procedures to obtain assurance that the child is or will be authorized to enter and reside permanently in the United States or Canada, as applicable; c. full disclosure of all information available to the organization regarding the child's medical and social history as part of the referral information; and d. assurance that the adoption of the child is completed. <p>S15.4.03 (a) : Services addressed in S15.4.01 also include: obtaining assurances that, at placement, the child is legally free for international adoption at the time of placement.</p> <p>S15.4.03 (b): Services addressed in S15.4.01 also include: following standard procedures to obtain assurance that the child is or will be authorized to enter and reside permanently in the United States or Canada, as applicable.</p> <p>S15.4.03 (a, b): Services addressed in S15.4.01 also include:</p> <ul style="list-style-type: none"> a. obtaining assurances that, at placement, the child is legally free for international adoption at the time of placement; and b. following standard procedures to obtain assurance that the child is or will be authorized to enter and reside permanently in the United States or Canada, as applicable.
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96.53	Background studies on the child and consents in outgoing cases.
a	The agency or person takes all appropriate measures to ensure that a child background study is performed that includes information about the child's identity, adoptability, background, social environment, family history, medical history (including that of the child's family), and any special needs of the child.
b	Where the child background study is not prepared in the first instance by an accredited agency or temporarily accredited agency (that is, it was initially prepared by an approved person or exempted provider), it ensures that the background study is reviewed and approved in writing by an accredited agency or temporarily accredited agency. The written approval must include a determination that the background study:
(1)	Includes all the information required by paragraph (a) of this section;
(2)	Evidences that consents were obtained in accordance with paragraph (c) of this section;
(3)	Reflects consideration of the child's wishes and opinions in accordance with paragraph (d) of this section; and
(4)	Was prepared either by an exempted provider or by an individual who meets the personnel qualifications set forth in § 96.37(g).
c	The agency or person takes all appropriate measures to ensure that consents have been obtained as follows:
(1)	The persons, institutions, and authorities whose consent is necessary for adoption have been counseled as necessary and duly informed of the effects of their consent, in particular whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin;
(2)	All such persons, institutions, and authorities have given their consents;
(3)	The consents have been expressed or evidenced in writing in the required legal form, have been given freely, were not induced by payments or compensation of any kind, and have not been withdrawn;
(4)	The consent of the mother, where required, was executed after the birth of the child;
(5)	The child, as appropriate in light of his or her age and maturity, has been counseled and duly informed of the effects of the adoption and of his or her consent to the adoption, including that it will result in the child living in another country; and
(6)	The child's consent, where required, has been given freely, in the required legal form, and expressed or evidenced in writing and not induced by payment or compensation of any kind.
d	If the child is ten years of age or older, or as otherwise provided by State law, the agency or person gives due consideration to the child's wishes or opinions before determining that an intercountry placement is in the child's best interests.
e	The agency or person takes all appropriate measures to transmit to the Central Authority or other competent authority of the other Convention country the child background study, proof that the necessary consents have been obtained, and the reasons for its determination that the placement is in the child's best interests. In doing so, the agency or person, as required by Article 15(2) of the Convention,

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	does not reveal the identity of the mother or the father if these identifies may not be disclosed under State law.		
96.54 Placement standards in ongoing cases.	a Except in the case of adoption by relatives or in the case in which the birth parent(s) have identified specific prospective adoptive parent(s) or in other special circumstances accepted the State court with jurisdiction over case, the agency or person makes reasonable efforts to find a timely adoptive placement for the child in the United States by:		
	(1) Disseminating information on the child and his or her availability for adoption through print, media, and internet resources designed to communicate with potential prospective adoptive parent(s) in the United States;		
	(2) Listing information about the child on a national or State adoption exchange or registry for at least thirty calendar days after the birth of the child;		
	(3) Responding to inquiries about adoption of the child, and		
	(4) Providing a copy of the child background study to potential prospective adoptive parent(s).		
	b The agency or person demonstrates to the satisfaction of the State court with jurisdiction over the adoption that sufficient reasonable efforts to find a timely adoptive placement for the child in the United States were made, or that making such reasonable efforts was not in the best interests of the child.		
	c In placing the child for adoption, the agency or person:		
	(1) To the extent consistent with State or Federal law, gives significant weight to the placement preferences expressed by the birth parent(s) in all voluntary placements;		
	(2) Makes diligent efforts to place siblings together for adoption and, where placement together is not possible, to arrange for contact between separated siblings, unless it is in the best interests of one of the siblings that such efforts or contact not take place; and		
	(3) Complies with all applicable requirements of the Indian Child Welfare Act, and as required by State law, the agency or person provides the birth parent(s) with independent legal counsel at the expense of the agency or person or the prospective adoptive parent(s), and fully discloses to the birth parent(s) that the child is to be adopted by parent(s) who reside outside the United States.		
	e The agency or person takes all appropriate measures to give due consideration to the child's upbringing and to his or her ethnic, religious, and cultural background.		
	f When particular prospective adoptive parent(s) in another Convention country have been identified, the agency or person takes all appropriate measures to determine whether the envisaged placement is in the best interests of the child, on the basis of the child background study and the home study on the prospective adoptive parent(s).		
	g The agency or person thoroughly prepares the child for the transition to the other Convention country, using age-appropriate services that address child's likely feelings of separation, grief, and loss and difficulties in making any cultural, religious, racial, ethnic, linguistic adjustment.		
	h The agency or person takes all appropriate measures to ensure that transfer of the child takes place in secure and appropriate circumstances, with properly trained		

	<p>and qualified escorts, if used, and, if possible, in the company of the adoptive parent(s) or prospective adoptive parents);</p> <p>i Before the placement for adoption proceeds, the agency or person identifies the entity in the receiving country that will provide postplacement supervision and reports, if required by State law, and ensures that the child's adoption record contains information necessary for contacting that entity;</p> <p>j The agency or person ensures that the child's adoption record includes order granting the adoption or legal custody for the purpose of adoption the Convention country;</p> <p>k The agency or person consults with the Secretary before arranging for the return to the United States of any child who has emigrated to a Convention country in connection with the child's adoption.</p>
96.55	<p>Performance of Hague Convention communication and coordination functions on outgoing cases:</p> <p>a The agency or person keeps the Central Authority of the other Convention country and the Secretary informed about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.</p> <p>b The agency or person ensures that:</p> <p>(1) Copies of all documents from the State court proceedings, including the order granting the adoption or legal custody, are provided to the Secretary;</p> <p>(2) Any additional information on the adoption is transmitted to the Secretary promptly upon request; and</p> <p>(3) It otherwise facilitates, as requested, the Secretary's ability to provide the certification that the child has been adopted or that custody has been granted for the purpose of adoption in accordance with the Convention and the I.A.A.</p> <p>c Where the transfer of the child does not take place, the agency or person retains the home study on the prospective adoptive parent(s) and/or the child background study to the authorities that forwarded them.</p> <p>d The agency or person provides to the State court with jurisdiction over the adoption:</p> <p>(1) Proof that consents have been given as required in § 96.53(e);</p> <p>(2) An English copy or certified English translation of the home study on the prospective adoptive parent(s) in the other Convention country, and the determination by the agency or person that the placement with the prospective adoptive parent(s) is in the child's best interests;</p> <p>(3) Evidence that the prospective adoptive parent(s) in the other Convention country agree to the adoption;</p> <p>(4) Evidence that the child will be authorized to enter and reside permanently in the Convention country or on the same basis as that of the prospective adoptive parent(s); and</p> <p>(5) Evidence that the Central Authority of the other Convention country has agreed to the adoption, if such consent is necessary under its laws for the adoption to become final.</p> <p>e The agency or person makes the showing required by § 96.54(b) to the State court with jurisdiction over the adoption.</p>

PROPOSED RULES TEXT	COA CITATION AND TEXT	CC	IT
<input checked="" type="checkbox"/> The agency or person takes all necessary and appropriate measures to perform any tasks in a Convention adoption case that the Secretary identifies are required to comply with the Convention, the IAA, or any regulations implementing the IAA.			



CREDIBILITY • INTEGRITY • ACHIEVEMENT

Proposed Standards for Recognition
for Hague Accreditation

Sufficiently Similar	
Proposed Rules	COA Standards
96.30 a)	S15.2
96.30 b)	G11.3.01
96.30 c)	S15.2.03
96.32 b)	G3.1.01, G3.6, and G3.7.01 (a, d)
96.32 c)	G3.5.07
96.33 a)	G6.2.02 and G6.2.04
96.34 c)	S15.3.03
96.34 d)	G4.2.02
96.35 d) 1)	G4.7.04
96.37 a)	S15.6
96.37 b)	S15.6.04
96.37 c)	S15.6.07
96.37 d) 1)	S15.6.01 (a)
96.37 d) 2)	S15.6.01 (b)
96.37 e) 2)	S15.6.02
96.38 a) 6)	S15.6.03 (a)
96.38 a) 7)	S15.6.05 (b)
96.38 b) 1)	S15.6.03 (a)
96.38 b) 2)	S15.6.03 (b, d)
96.38 b) 7)	S15.6.03 (b)
96.39 c)	S15.3.06
96.40 a)	S15.3.01
96.40 b) 3)	S15.3.02 (e)
96.40 b) 7)	S15.3.01
96.41 d)	G1.8 (d)
96.41 h)	G2 and G2.1.01
96.42 d)	S15.5.01 (a, c)
96.42 e)	G11.4.07 (a)
96.45 a) 1)	G11.8.05 (a)
96.45 b) 5)	G11.7.04 (i)
96.45 b) 13)	G11.7.04 (l)
96.47 a) 2)	S15.4.02 (c)
96.47 c) 2)	S15.2.03
96.48 b) 7)	S15.4.07
96.48 c) 1)	S15.4.07
96.48 c) 3)	S15.4.03 (c)
96.50 c)	S15.5.02 (b)
96.50 g)	S15.5.02 (a)

This chart was developed by the Council on Accreditation. Any questions should be directed to: Jayne Pietrass, Council on Accreditation; jpietrass@coanet.org or 866-COA-8088.



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October 14, 2003

Mr. David Rosteker
Office of Management & Budget
Attn: Desk Officer for the Department of State
Office of Information and Regulatory Affairs
Room 10202
New Executive Office Building
Washington, DC 20503

STATE/AR/01/96

Dear Mr. Rosteker,

The Council on Accreditation (COA) has advised the appropriate personnel at the Department of State of its intention to apply for designation as an accrediting body pursuant to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Convention) and the Intercountry Adoption Act of 2000 (IAA).

In connection therewith, COA understands that if it is designated as an accrediting entity it must comply with the Burden and Estimate of the Total of Public Burden Per Year Associated with the Collection and Dissemination of information required Sections 96.91 and 96.92.

COA respectfully questions the accuracy thereof for the following reasons and requests that these concerns be duly noted:

- a. The specific duties of an accrediting entity is contingent on determining the following:
 - i. Whether the proposed Regulations, Subpart N, pertaining to Temporary Accreditation, are amended, deleted or remain as set forth;
 - ii. The magnitude of the universe (accredited agencies, temporarily accredited agencies {if any} and approved persons) to be the subject of information collection and dissemination is

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impossible to ascertain pending the final
Regulations; and,

- iii. Organizations such as COA that have indicated an intention to be named an "accrediting entity" may not have decided whether they wish to seek to be an accrediting entity for "persons".
- b. Complaints - either substantiated or unsubstantiated - may well form a substantial part of the information to be reported as. Given the ease with which they can be lodged and communicated to other interested parties (and potential complainants) via the internet, there is no way for COA or any accrediting entity to determine the volume of complaints that may be received.
- c. Absent a better understanding of each of the above, an accurate estimate of the burden in terms of manpower, time and money cannot be made.

In consequence of the above, *COA respectfully suggests that the final Regulations be revised to substantially increase the estimate of the Burden and Estimate of the Total of Public Burden.*

Finally, it must be noted that the provisions regarding the collection and dissemination of information will impact the cost of accreditation. Whether this will in turn have a chilling effect on agencies seeking accreditation and ultimately the number of children who will be the subject of adoption from Convention countries are issues that should be considered.

We welcome the opportunity to discuss these concerns and this comment with OMB and the Department of State.

Sincerely,

Richard Klarberg
President & CEO

CC: Dept. of State